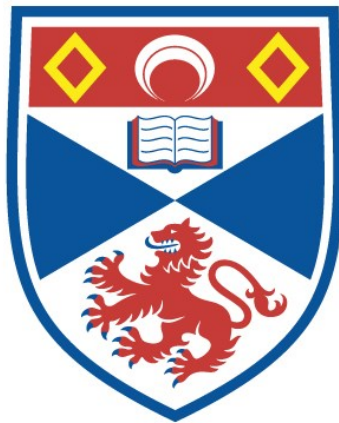


THE GENERAL ASSEMBLY OF THE KIRK AS A RIVAL OF THE SCOTTISH PARLIAMENT

Edith Edgar MacQueen

**A Thesis Submitted for the Degree of PhD
at the
University of St Andrews**



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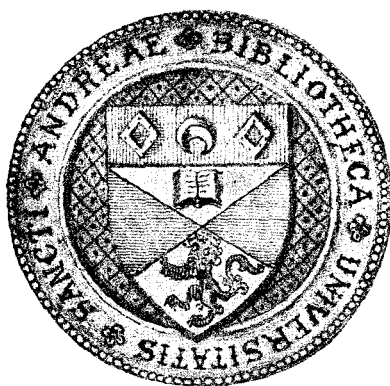
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THE GENERAL ASSEMBLY OF THE KIRK
AS
A RIVAL OF THE SCOTTISH PARLIAMENT

being a Thesis presented by
EDITH E. MACQUEEN
TO the University of St. Andrews
in application for the degree of Ph.D.

CERTIFICATE

I certify that EDITH E. MACQUEEN has spent nine terms at Research Work in Modern History, that she has fulfilled the conditions of Ordinance No. 16 (St. Andrews) and that she is qualified to submit the accompanying thesis in application for the degree of Ph.D.

DECLARATION

I hereby declare that the following Thesis is based upon historical research carried out by me, that the Thesis is my own composition, and that it has not previously been presented for a Higher Degree.

The Research was carried out in the Library of the University of St. Andrews, in the British Museum and Record Office, in the General Register House Edinburgh, the Scottish National Library, and the Library of the General Assembly Edinburgh, and elsewhere.

The thesis was composed for the most part in St. Andrews.

CAREER

I matriculated in the University of St. Andrews in October 1918, and followed a course leading to graduation in Arts with First Class Honours in English and History in October 1922.

I was awarded the Berry Scholarship in History for the academic year 1922-23 and submitted a Monograph upon the Life of John Duke of Albany which was awarded the Hume Brown Essay Prize in Scottish History in June 1923.

In October 1923 I commenced the research on the results of which the present thesis is being submitted.

I was appointed in October 1923 to a Carnegie Scholarship in History which was renewed in 1924-25. Since October 1925 I have held a Carnegie Research Fellowship.

Prefatory Note

The accompanying thesis forms a study of the General Assembly as an influence not only upon Scottish Politics but upon Scottish Representative Institutions. The majority of writers upon the history of the Scottish Church stress the private influence of individuals, which while interesting in itself was in many cases extraneous to the general movements both in the Kirk and in the development of the representative principle both as applied to Kirk institutions and to Parliament and Conventions.

Several writers have seen in the General Assembly a thoroughly democratic institution, which represented all classes of social life and which prepared the way for the ideal of a universal franchise. I have endeavoured to show that the General Assembly for the greater part of its development had little of this universal character and was rather the expression of an "Opposition" which was no more democratic in actual composition than the Parliament itself.

The period 1560-1618 represents only part of the period upon which I originally began investigation. To cope with the century 1560-1660 I found that it would have been

necessary to omit much manuscript material which was valuable for purposes of detail. I therefore limited the present thesis to the 58 years after the Reformation which saw the rise of the Assembly to full power 1592-96 and its subsequent decline, both as a political force and as a representative institution.

The result was that a large portion of my work upon XVIIth Century Manuscripts does not appear in the present thesis, but will I hope be used in a subsequent supplementary volume. As the study of these sources materially affected the conclusions drawn in my thesis I have included in my Bibliography a list of the more important.

Since I began the study of the Assembly Miss MacGregor's book upon the Scottish Presbyterian Polity has been published. While disagreeing with several of her conclusions, I found that she had covered a portion of my field as I have indicated in the footnotes.

In my search for new material I have examined all likely sources in the British Museum the Scottish National Library and the Library of the General Assembly. Much of that investigation produced entirely negative results.

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THE GENERAL ASSEMBLY OF THE KIRK
AS
THE RIVAL OF THE SCOTTISH PARLIAMENT 1560-1618

CHAPTER I. Introductory; Summary of Conclusions;
The Organization of the Church.

"Ye will not I trust equal your Assemblies to the Parliament of the Three Estates".

In this phrase did Lauriston the King's Great Commissioner in 1605 sum up the problem of the claims of the General Assembly of the Kirk of Scotland and its position in relation to the Civil Government and the High Court of Parliament.

In the history of the growth of the representative principle in the Scottish constitution there had always been a tendency to Separatism. The weakness of the Central Authority occasioned by the frequent minorities and the rival claims of the great lords of Parliament to the throne had resulted in Conventions of Separate Estates for purposes of legislation within that estate, which the Crown was not strong enough to enforce. The burghs had their Convention and the nobility also had meetings which virtually directed

the domestic and foreign policy of the realm. The Parliament of the Three Estates was very often simply a Court of Registration for the decisions of these groups of Lords meeting in official or unofficial convention.

When therefore the new church was born at the Reformation there was nothing remarkable in the fact that it should hold conventions of the kirks of the realm and legislate for them in matters of religion. But the General Assembly of the Scottish Church was more than merely an Assembly of a Separate Estate, for it claimed to represent the whole of the godly--lay as well as spiritual. Its national strength lay not in the small group of ministers who numbered only 6 in the first Assembly but in the support of the laymen who could supply the force necessary to overthrow the old regime. In the sederunts of the Assembly this lay element was described according to the existing conditions in Scotland and divided according to the Three Estates...Lords, Commissioners of Burghs, and Commissioners of Shires. The last designation is interesting, for the term appeared in the Kirk long before the Commissioners of Shires were re-admitted to Parliament by the Act of 1587. The General Assembly therefore was something more than a Separatist meeting of the Estate of the Clergy.

A modern writer in discussing the problem of religion and its influence upon politics states "The Scottish Parliament (1) Law Matheson Politics and Religion Vol.I.p.223

a one chambered House at the mercy of the King and the Nobles and existing only to register the decrees of its own Lords of the Articles could be but the most inadequate expression of the national life. On the other hand the General Assembly entirely popular in character and pervaded by a strongly Puritan spirit fulfilled many of the functions of a Scottish House of Commons."

This statement accepts the doctrine that the General Assembly was a purely democratic institution. The graduated system of Church Courts and the apparently elective and representative methods practised give colour to the view. The Kirk played the part of the Commons in the sense of criticizing existing conditions, petitioning the Lords for Reform, and uniting under its organization the two groups who, in England, coalesced to form the "Commons" i.e. the shires and burghs; but that the General Assembly was the reflection of the whole feeling of all Scotland is to be doubted. It did however form a kind of Constitutional Opposition to the Governing Power which guided the Parliament, but in itself it was often as much animated by party spirit and dominated by the Committee or Group System as was the Parliament which it rivalled. As its power increased and its struggles for subsistence became less acute, the Kirk began to formulate theories of Government which had they emanated from Parliament would have indicated a sense of Constitutional Parliamentary Government under a Limited Monarchy which was not formulated by the Civil Body until the XVIIIth Century.

The claims of the Assembly; (1) The King.

The sum total of the Assembly's claims was formidable. Besides the historic demand that doctrine should not be judged of by laymen whether or no the charge involved was that of treason, the excursions of the Kirk into the realm of Civil Organization had resulted in proposals which practically covered the whole field of Parliamentary enactment save that of Civil and Criminal Judicial Function. The ministry, by their perpetual anxiety as to Papists, limited the King's freedom even to the extent of his receiving embassies from foreign powers. Their right of access, which James seldom denied, gave them opportunity for rating the King in a manner which no Tudor would have borne, and they laid down rules of public and private conduct which were so persistent that James could not altogether neglect their advice. The individual power of the ministry lay in the fact that by means of their bi-weekly sermons, they wielded an enormous power of influencing and even creating public opinion among the Edinburgh mob, or the lairds and their feudal tenants which although perhaps only confined to Lothian and the central provinces was yet a menace to a King who stood daily in fear of loss of his personal liberty.

Council The Assembly however did not confine its pretensions to control of the King. It held a theory that the Council was responsible for the advice which it gave the prince, and that if the prince disobeyed good advice the Council ought to Control him. Their action in 1596 brought about the resignation

of the Octavian~~a~~ which the Civil Opposition in the Court could not have effected without the aid of the Kirk. But this control of the King by constitutional means was not really based upon democratic principles of responsibility to the people of Scotland. It was a recrudescence of appeal to the system which prevailed during minorities when the ancient feudal nobility exercised power at the expense of the prerogative. The sympathies of the Assembly were almost always on the side of the Higher Nobility as against the more recent creations which were dependent upon the Crown.

When James began his policy of alienating the lairds from the Kirk he drew them with the bait of these "new creations"

The Prerogatives

In the realm of foreign policy which during the XVth Century was usually held to be one of the prerogatives the Assembly exercised a strong influence, and directed very competently an Anti-Spanish agitation, directing organization for national defence, for the supply of arms from abroad, for training troops and appointing their captains. The kirk system of "intelligence" was recognized by the government as the best possible under the threat of attack by a foreign invasion, and when the Civil Authorities were at last roused to action they simply took over from the Kirk what she had initiated by her own efforts. From the beginning the recognized Kirk attitude in foreign alliances had been one of alliance with England and other Protestant Powers against the bloc of the Catholic Nations, and this continued to be the Assembly's standard whereby

Foreign Policy

King, Council, Parliament, and Convention were judged.

Militia

The second prerogative of the Crown which they virtually attacked was "the power of raising and arming the subjects". The Crown of Scotland had never been able to control its unruly barons, but under the Kirk the problem took on a peculiarly national significance. The right of the nation to defend itself against attack without requiring the Royal authority, was certainly established under the Assembly, as the right of defence of religion; and although the King obtained from the Kirk an admission that her Assemblies must receive the Royal sanction to meet, there were other kinds of conventions, whether of the ministers alone or with the barons, or with the burghs, whether armed or not, whereby this limitation upon Kirk freedom might be obviated.

The Guard

In 1594 the Assembly interfered with the discipline of the Royal Guard, with which it was closely connected [since both Kirk and Guard were paid from the Thirds (with the additional fifth penny)] but the attempt was unsuccessful and the King curtly told them it was no part of their office that kirkmen should direct his personal following. Yet in the preceding year the King had been anxious to obtain the Kirk's influence in raising the "voluntar contribution" for the support of a paid guard of 100 horse and 100 foot which a group of barons and burghs had, under kirk direction, offered to supply.

A Third prerogative of the Crown (see "Thomas Middleton Appendix to Spottiswood's History p.51") was the nomination of all officers both of the State and of War. We have seen how the

Officers
of
State.

Kirk, while reluctantly admitting the principle, had united its authority with the Civil Power in the Choice of Captains who were to train the local militia (1596) But in the matter of the Officers of State, the Assembly had long presumed to exercise, if not a choice, at least some kind of right of veto or power of criticism of the choice of Officers. The Assembly had made representations as to the personal faults of the Royal servants. The Assembly of 1583 definitely put forward the claim to direct or suggest a "coalition" Government of "moderates" but the King as stoutly maintained that the Kirk had no legal voice in such matters either of change of government or of foreign alliances.

Justice

A Fourth Prerogative of the Crown they called in question, namely that of Execution of Justice and the power of pardoning offences. The great struggle for the conviction of the Papist Lords was simply an expression of the view that the King could not pardon at will, and by rousing national feeling on the point they obtained a concession that ministers should be represented upon the commission which heard the evidence against the accused.

Finance

In the eternal problem of Finance the Kirk was always interested, for the King's poverty was bound up with the poverty of the Kirk. The King even on one or two occasions asked the advice of the Assembly or its Commission on the pressing question of his debts. The Kirk remedy was never too palatable, for it recommended the appropriation of the revenues of the excommunicated Earls and their inalienable addition to the

Crown Lands. Nevertheless the King recognized the power of the Kirk in the localities in the matter of collections (e.g. for the Kirk of Geneva 1604) and a warrant from the Privy Council, coupled with a request from the General Assembly was often of more effect in producing ready money than formal Parliamentary Taxation on a national basis. The Kirk did collect much by these private contributions, but sometimes such collections were only to be gathered by means of the concurrence of the gentlemen, who used their feudal authority with their tenants— "the mean men" or the commons—and, if the proposal did not suit the baronial interest, the Kirk was plainly told that there "wald be nothing". Such taxations were local (although disseminated widely by means of advertisements to Presbyteries) but the object was almost always a definite one in the interests of local charities, for religious aims and the supply of religious exiles. When the Kirk undertook to collect the contribution in 1593 for the payment of a Guard for the King, the response was reluctant, and some of the answers received showed that the barons resented the Kirk and a group of ^{lairds} ~~barons~~, who were not representative of all Scotland, voting taxes for them as an estate, whether on a "voluntary" basis or not; for the King soon placed the taxation on a compulsory one and used the ministers and Presbyteries as his collectors. Again throughout the troubles of 1594 the ministers were invaluable to the King in collecting money for his expedition to the North but when in 1596 he appealed for a contribution of the whole realm the Assembly gave no definite answer but enquired rigorously what had become of the rebel revenues and other sources of national income.

Trade

Closely connected with Finance was the question of Trade. In this respect the Kirk was concerned not so much with King and Council as with the Convention of Royal Burghs. The attitude of the Assembly towards trade was influenced not by economic advantage but by the religious questions involved, just as in foreign policy national advantage was placed second to moral considerations. Although the Convention of Burghs reluctantly admitted the Kirk's point of view to be just, in practice the "traffickers" and "sailors" to Spain were not easily suppressed, and this in spite of the threat of excommunication issued in 1593. The Spanish export trade was valuable to the merchants, especially to those of Edinburgh and some of the Fife towns e.g. Largo, and the difficulties of breaking off business relations were not fully appreciated by the Assembly. The restriction of export and the insistence of the ministry upon old acts of Privy Council enforcing "licences to export" were factors which tended to make the merchant class somewhat indifferent to the appeals of the Kirk when her own liberties were threatened.

Parallels Between the whole system of Civil Government and that of the between Kirk there were many clear parallels. The deliberative and Assembly legislative body in both cases was composed of the Three Estates. and In the Assembly the attendance of the "Lords" was not regular Parlia: except when the "Opposition" desired to use the Assembly as :ment. a Counter Parliament, but the Kirk desire to have the Nobility

Lords

present at their meetings was one of the urgent problems of the early period. What the Assembly really desired was the attendance in their midst of the Privy Council as the Chief Executive Force, either in a body or by accredited commissioner who should have power to commit the Council to a given policy. Morton definitely took up the position that, although individual Privy Councillors might attend, the Council officially was not ^{me} to be amalgamated with the Assembly, but that the Kirk must petition the Civil Power as did the other Estates. The Kirk, therefore, was not being particularly consistent to its former designs, when during the "corrupt" period it objected strenuously to the presence of the large numbers of laymen (without commission from the Kirk) who were virtually an augmented Privy Council.

Barons

The Barons in the Assembly had been recognized as the leading lay force since the beginning of the Reformation. They appeared in force in the Kirk Conventions as "commissioners of shires as early (if not earlier) ^{than} as 1564, 23 years before their claims to that title were recognized formally in Parliament. There is no doubt that they used the Assembly to obtain political recognition, and their attempts to get into Parliament and their development as an Estate in Assembly form almost a complete sequence. The extraordinary conventions of 1593 were important from the constitutional point of view, for they definitely established the case for the lairds, that the type of nominated Convention or augmented Privy Council, which the King had adopted

did not satisfy their desire for share in Government, and that if the Civil Government did not invite their co-operation, they were capable of making Kirk Conventions so strong that such nominated Conventions as the King called would be ineffective. That the movement was one largely under the direction of the Lothian and Fife Lairds is clear, but the constitutional position remains unaffected. Certainly the Parliament of 1594 was the first in which lairds were represented on an established representative principle in the manner provided by the act of 1587. For the defection of the Lairds which really induced the subject: ion of the Assembly there were several reasons. First the proclamations of the year 1596-97, secondly the financial situation of the Church and its demands for restoration of the stolen spoils of the Reformation, the approximation of the representative principle of Assembly and Parliament, and the policy of the King in creating a new nobility from the laird class for the execution of Civil and Ecclesiastical. The Lairds had never been "godly" but the Kirk and its Assembly were the means to power.

Burgesses

The Burghs in the Assembly were not normally present in large numbers, but records are defective and we can only judge from the extent to which they were used in commissions and committees. Very often however when a Convention of Burghs coincided with a meeting of the General Assembly a large number of the burgesses simply transferred themselves from one meeting to another. There was no difference in qualification which would, normally, prohibit a burgess from representing his burgh both in Assembly and in Convention. The approximation of the Estate

of the Burghs in Parliament to the Convention of Royal Burghs meant that the same persons might represent the Burghs in Parliament, Convention, and Assembly, and this practically indicated that the Burgesses in Assembly were of the ruling merchant class i.e. the Assembly was no more representative of the "commons" or crafts in the burghs than it was of the poor tenants in the country. Its standards were the same as those applied to Parliament. "Godliness" which ought to have been the criterion, irrespective of social barriers, was subsidiary to the local and municipal politics, and kirk representation varied with the feuds of the merchants [e.g. St. Andrews 1593 Kirk and Burghal organization were inextricably intertwined]. The Assembly, however, when the Burgh conventions did not coincide (which meant normally that only Edinburgh and a few adjacent Burghs might be present in Assembly) directed special commissioners to invite the co-operation of the Convention of Burghs not as individuals but as a corporate whole. In January 1593 a particular convention of Burghs agreed to share the expenses of the Royal Guard. The meeting was obviously the burgess membership of the Kirk Convention. At other times, such of the Burghs as met for the Assembly took advantage of the opportunity to hold particular conventions of their own to discuss affairs of their own estate. e.g. Montrose 1595.

This in the personnel of Parliament and the lay element in the General Assembly there was little difference as to qualification of the delegates. The large mass of the people *landward as represented by the poor tenant and* both in "burgh" as represented by the unfree in cities

had no direct voice in Assembly affairs

and even the craft burgess. The latter was not excluded by any rule of the Kirk but the practical monopoly enjoyed by the central group of citizens who ruled alike in Session and Council, meant that the delegate whom they sent to Assembly and the delegate sent to Convention should be of the same class; and by law of Convention, craftsmen were excluded from representing the Burgh in Convention and Parliament. But the Kirk laid down no rules of qualification save that the deacons should not represent the "governors" of the Kirk in Assemblies and as there are indications that the deacons of crafts were often synonymous with the deacons of the Kirk Sessions both systems seem to co-ordinate in prohibiting the craftsman from making his views known. But it is impossible to lay down any dogma on the point. Conditions in towns depended upon the vagaries of the Local "sett" and the Kirk Session was also in its constitution open to frequent adjustment to meet these local conditions.

Time
of
Meeting

Alike in personnel, the Parliament and Assembly made this likeness more pronounced (or at least ^{the Assembly} attempted so to do) by arranging its meetings to coincide with those of Parliament. As the Convention of Burghs had this express object also in view this meant that General Assembly would also coincide with the burghs who eventually arranged to meet 2 days before the Parliament--the same interval upon which the Assembly also agreed.

Committees

But parallelism extended farther than this mere approximation of personnel and date of meeting. The organization of both had many points in common. The chief feature of Parliament as a deliberative body was the appointment of the Committee of the Articles which virtually settled the whole of business, only submitting the decisions for ratification in open Parliament. In the Assembly the rise of the same principle can be traced in the development of the committee known as the Moderator's Assessors and later as the Privy Conference. As the King gained complete control of the Articles (1606) so he gained complete control of the Assessors or at least enough to provide against the discussion of vital points in open debate in the full Assembly (1618).

Commissions

The system was closely connected with the development of the "Commission" in the Assembly itself. The history of the "Commission" of Assembly is the history of the interaction between the Kirk and the Civil Power. It arose from the informal discussions of ministers sent for information from the Assembly to the Council and from that to small bodies of delegates drawn from ministers barons and burgesses who were deputed to present petitions to the Regents, Privy Council, or Parliament. These commissions having no permanence were usually very ineffective, and in the troubles of the times frequently no attempt was made to report upon the success or otherwise of the negotiations. The establishment of the powerful group of ministers resulted in a kind of permanent oligarchy at Edinburgh, an oligarchy of individuals whose rashness sometimes precipitated the whole kirk policy into quarrels which were often only the concern of the local group. With the establishment of

Presbytery, although these temporary commissions persisted the real power of negotiation with the state fell into the hands of the Edinburgh Presbytery, which really exercised a function similar to that of the Civil Privy Council, as a permanent commission of Assembly. In 1593 the first formal and representative commission of Assembly was appointed to deal with Parliament and the Civil Authority, with full power of the Assembly in the interval. Commissions of this type had disappeared from the Parliamentary Constitution since 1543 although they were revived in the XVIIth Century at the same time as the corresponding Commission of Assembly. ~~was revived.~~

Nevertheless, until the disasters of 1596 the central organization at Edinburgh was responsible for summoning these "commissions" although the Fife group ~~were~~ almost equally powerful. The King adapted the system for his own ends. The General Commission of 1597 was to meet when he should think convenient and the subsequent developments by means of the vote in Parliament to the Restoration of the Estates of the Bishop were practically implicit in the tendency which the Kirk had always evinced towards a central oligarchy. That this oligarchy was now under the Royal Control produces the parallel of the Royal Power in the Privy Council.

If the Presbytery of Edinburgh and the General Commissions (whether "free" i.e. controlled by the Fife and Lothian groups or "corrupt" i.e. controlled by the King) corresponded

Conventions in function in the Church, to the Privy Council and its function in the State, other parallels may be drawn in the system of Conventions which centred round these bodies. The Augmented Privy Council which came to be the Convention of Estates was represented ^{in the parallel system} by the small conventions of the ministry, either of those who happened to be in town, or of those from adjacent Presbyteries, which required no lay element, to make them effective. Larger meetings such as those of the (1588) "Convention of the Wacriff", and November 1592, January 1593 etc correspond to Full Conventions of Estates and were little different from Assemblies save in the hastiness of summons and the fact that the King's authority was not requisitioned. Even so it meant that, on the principle of Conventions of Estates, the central summoning body would only advertise those Presbyteries (and gentlemen and burghs) within a limited area. Thus the brethren of the North were ignorant of the true proceedings of November and December 1596. But never at any time was it suggested that the attendance of laymen was necessary to an Assembly. Although almost certainly laymen were absent from the Assemblies of 1596-97, 1597, and 1601 at least on a generally representative basis, it was not contended that their absence made the Assembly illegal. The Melvinian doctrine of the superiority of the ministry had its own defects.

The General Assembly thus provided a close parallel to the Parliament in personnel, committees, commissions, executive Councils and Conventions. Eventually the methods of deliberation

approximated to those of the Parliament e.g. 1610 the main body of the Assembly could discuss nothing until the Conference reported.

Vote

Voting was on the model of the Parliament, i.e. by public roll call. The unit was the individual member not the Presbytery as is sometimes hinted in Calderwood. But the votes were called for normally in order of Presbyteries and usually all the delegates from a Presbytery would vote solidly according to their instructions. The "unanimous vote" of the zealots must always have been something of a myth unless it developed into a form of obstruction.

The Chief Church Court therefore was closely analogous both in the business it discussed and in its organization to the Supreme Court of Parliament. But the Kirk took up a far more independent attitude in dealing with the prerogatives of the Crown and the general welfare of the Country than did the Parliament. It was enabled to do this because it remained the unassailable opposition outside the Parliament. While its lay element might be crushed by civil enactment its ministers by their claims to a superior jurisdiction and to "inspiration", by their theories of the "two Kings and two Kingdoms" could dare more than a citizen whose pretensions might be condemned as treason. Before that charge the minister could always erect as his protection "the liberty of the Kirk" to judge of ministers in the matter of doctrine, and they extended doctrine to include

almost any utterance public and private. It was this independence of jurisdiction which gave the Kirk its enormous power to "brave" the King and civil displeasure, and the freedom from censorship of public discussion of affairs of state persisted in spite of James demands. It was only after 1596 that some sort of control was imposed by authority of the Assembly itself. These irresponsible utterances were the more dangerous in that the King and Civil power had no means of counteracting the opinion which the biased pronouncements of the pulpit created. In the absence of newspapers the pulpit was practically the only means of disseminating news, and the anti-Spanish, pro-English public opinion was largely the ^{creation} ~~work~~ of the Assembly through its organization, and particularly of the Corner stone of its organization—the Ministry. That the Kirk fully realized its power in this direction is clear from the request of the Kirk after the riot of 1596 that the King would refrain from publishing accounts of the disturbance. The pulpits were silenced and the Kirk was afraid that the Royal influence would extend to the direction of the trend of public opinion. How therefore did the Kirk obtain its hold over public opinion? The answer lay in the fact that its local organization was far more efficient than that of the Civil Administration. The minister, through the Presbytery and Synod, had a far closer contact with the Central Church Assembly than was possible through the channels of the civil administration through the Sheriff and the Shire Courts. The local barons and bailies of regalities were practically independent magnates and the Crown was itself jealous of its hereditary Sheriffs e.g. the

act of 1587. Respect for the Central Authority was by no means certain, and short of public proclamation there was no way of working upon national sentiment as against the feudal claims of the Lord and Laird over their tenants.

The sources
of
Power.

The minister however was in constant and regular touch with the outside world through his Presbytery, which was kept informed of "dangers" by the central Edinburgh group. The interpretation of these dangers to the congregation created a public opinion which the Kirk used to advantage. The most important people in the landward congregations were of course the lairds whom the ministers cajoled and rebuked as it suited their purpose. Presbyterianism did not go very deep with the majority of the "commons", who preferred to follow their lord in religion as in other concerns; yet the visitations of the various parishes show that a definite purpose was made to appeal to the commons as well as their feudal superiors. While the Kirk did not believe in government by the people it was a stout upholder of the doctrine that government must be for the people. Thus occasionally ministers were rebuked by the Presbytery because their "doctrine" was not popular enough. "It was thocht that the commone pepill could not have resavit ony frute therof" (1) John Davidson wrote a series of graces for the "unlernit

sort" (2) But as a rule the ministers appeal and also his

(1) Haddington Presbytery Records. MS 22nd October. 1589

(2) James Carmichael in July 1589 was desired to be mair familiar to the commone pepill. Alexander Forrester was requested to refrian from quoting Latin in the same interests.

"information" was directed toward the local landowners who could then use their feudal influence at the Kirk direction.

Minister and Laird. Normally between minister and laird there was a strong alliance without which the Kirk discipline would have been of little effect. Very frequently the minister was of the same feudal class as the landowner. More often than not he was a younger son of a baronial family and therefore of the same class which produced the Scottish soldier of fortune. His insubordination ^{or} and impatience of control, was, therefore, not only due to the "moving of the spirit" but was a recrudescence of the old unruliness of the robber lairds, in an unexpected quarter. The ^{Pre-}reformation nobility had sent their younger sons to the Church; the post-reformation position was very similar. A Presbytery could not refuse the patron's presentation to a qualified and suitable man. Very often a relative of the noble family fulfilled the qualifications.

The alliance both by blood and marriage had been established very early. Knox had married Ochiltrees daughter, and even he respected feudal ties of fealty or friendship. (1) John Row married the Laird of Balfour's daughter. Many lairds were also landowners in their own right although it was questioned by Morton whether a minister might also be a "landed man". The

outstanding example was the Laird of Dun who although prominent
 (1) cf. Knox and Bothwell. History. II. p. 323 "My grandfather good:
 :sher and father have served your Lordships predecessors
 and some of thame have died under their standardis and this
 is a part of the obligatioun of our Scottishe Kyndnes; but
 this is not the chief.

in the Assembly as a Superintendent (although he was perhaps never more than an exhorter) yet continued to represent the Burgh of Montrose as its Provost in Parliament. David Lindsay the intrepid minister of South Leith and subsequently Bishop of Ross, was also Laird of Pittormie and his father was the Laird of Haltoun, who himself was a member of Assembly. Of Lindsay's own sons the younger followed his father's profession, the elder becoming an advocate and succeeding to the title of Laird of Annatland. (He was a Bothwellian in politics). The whole family was a branch of the Lindsays of Edzell, with a long record of lawlessness behind it. In the same way Robert Pont was the younger son of the Laird of Shyresmill, Balcanquhall was also of a landowning family. The somewhat unreasonable obstinacy ^{of Robert Bruce} was the direct heritage from the Lairds of Airth. His mother was a great granddaughter of King James the First and his elder brother was the unruly Laird of Kincavell. Andrew Hay another of the early reformers was the brother of the Laird of Tallon. The Melvilles were of the same type. The notorious Walter Hay was a scion of the house of Yester and himself declared that his object in remaining at Bothans was to attempt to make his claims to the estates a reality.

Lairds and ministers therefore were of one class, and particularly was this true of the leaders of the ministry's most aggressive policy. The General Assembly, for the baron, was almost a national convocation of his Estate in conjunction with the younger sons, who had acquired the valuable quality of "inspiration", and their allies the merchant

burgesses who were also often related by marriage and blood to the same baronial families.

Feudalism

The Kirk fully appreciated the feudal principle. As an institution the General Assembly supported the claims of the ancient nobility as the ^Sretraining power over the King and disliked new creations, ~~and~~ ^{ing} distrusted those of the smaller nobility who rose to high place. She used the feudal theory to obtain execution of her decrees through the local baronial courts and each laird was expected or rather bound to be responsible for his tenants. e.g. Samuelston in the Presbytery of Haddington obliged himself to prevent any of his tenants from holding "pasche" and May day plays (1) When commissions for trial of Sabbath breaking etc were requested they were ^a always made out in the names of the "well affected" lairds. Without the feudal influence little execution followed upon the exercise of Kirk discipline. The minister of Garvald complained in 1589 that "since the laird of Nidra separatit he hes had littill huid ordour for laik of ane civill magistrat .Zit he hes oft suittit the bailzies to mak ane act of court wt ane penaltie". Matters (2) would therefore be infinitely worse when the local magnate

(1) 30th April 1589 Haddington Pres Records.

(2) July 1589.

Alliance
and
Conflict

The case
of
Seaton.

was definibely hostile. Seton sometimes used his feudal authority to prohibit such of the elders of Tranent as were his tenants from attending the Kirk Session, and, as the majority of them were dependent upon him, the result was confusion. Seton was reluctant to forbid the holding of the Sabbath market at Tranent, but the Presbytery gave him a stern alternative, that "unless the said lord be his power and authority and command, put end discharge and annull the said mercat of Tranent fra the Lordis day that the nixt Sondag following the sentence of excommunicatioun salbe pronouncit aganes him wt out farder delay" (15th October 1589) Seton was indignant in that he had already expressed submission to the Commissioner/ of the Assembly and the Presbytery of Edinburgh. "In my opinioun" said he "the sentence of excommunicatioun was not ordanit to be thretnit aganis the obedient nather for sic civill matteris as ar approvyn and ratifeit by the supreme magistrate and thrie estaitis of the realme.....but for weichtie crymes committit and our seine". (1)
In a great struggle therefore the Kirk could attempt to break down the feudal bond by the final ecclesiastical weapon of excommunication. Which would be of most avail? In point of fact the tenants and servants stood by their lord in spite of penalties and the Kirk became extremely wary of placing her authority in jeopardy. Yet although the market was prohibited by "Ninian Weir barroun officer of the barrony" in a court specially constituted by "ane nobill Lord Robert Lord Seytoun" under (1) 29th Ocyober 1589

penalties of confiscation of goods and other punishment according to the act of Parliament the abuse still continued and once more the threat of excommunication was produced. It had not been long in process before Seaton submitted. The situation was the more interesting in that Seaton and Elphinstone were the commissioners specially depute by the King to carry out the act, under pain of rebellion. Seaton was perpetually in trouble for non-attendance at Church, but this fault was not confined to those suspect of Papistry. Some of the Lairds who were most frequently to be found representing the Presbyteries in the Assembly had not attended their true parish kirk for periods ranging from one to seven years. The landward Kirk Sessions were unable to do anything to compel them. Many of the elders were relatives and dependents of the accused. In Baro practically the whole of the Session were Hays, and in Tranent the number of Setons was overwhelming (The Presbytery book of Kirkcaldy during the period of the civil wars shows the same tendency wherever the names of the individual sessioners are given). The household of Seton was involved in the plots of 1593 and many threats of excommunication were launched against them to induce them to attend church and communion. These were temporarily effective but by 1597 Tranent both burgh and parish obviously under the influence of Seton showed its preference for the feudal bond rather than for the Kirk's welfare. None would bestow any "portioun of thair geir

upon a second minister "for na mannis persuasioun request or desyre, In respect that thai ar sa farre thirlit and addetti~~d~~ in the countrey to get thair rowmes sawin and thair maisteris fermes and dewties payit now in this evill and deir zeiris"

(22nd March 1596-97) The indignities suffered by the minister who did supply the second charge were so great that the Presbytery forbade him to preach any longer in a place which had shown so decidedly that it had no desire for reform(June 1597); Forrester the minister of the first charge only maintained his position by a kind of sycophancy. Seton about the same tyme "altogether refusit" to permit the Presbytery to sit in the Kirk of Seton for the purposes of visitation. Seton was determined that if any minister should supply the second charge he should be a person agreeable to himself and he and the minister of the first charge entered into a corrupt bargain to secure the position for a son of the latter. The Presbytery considered that Seton being only one although the chief of the heritors was not to be permitted to have it all his own way. It summoned all the others concerned who agreed that "as thai were a populous and famous congregatioun of some noble and sundrie honorable personages, sa wald thai rather mak thair accompt to have the best that thai could find out in the haill cuntrey" Yet they were not willing to pay for his support. By the end of August the Presbytery had

come to the conclusion that "seing thair is nane can be found that ather will or may serve thair wt out provisoun, qlk appeiris to be the Drift of the parochineris for 'the maist part Or ellis that thair be na ministrie thair at all sa thai can get thair turnis done" no other minister should serve within the parish nor grant any Church benefits until the parishioners suited for it. This decision was sent to David Seton bailie of Tranent. Lady Seton was now attacked as suspect in religion. When summoned before the Presbytery a servant of Seton excused her absence on account of the dangers she might encounter in coming to Prestonpans where the Presbytery was sitting because of the proximity of her husbands enenies. But the Presbytery was not so easily deceived for they found that Seton had no enemies in that quarter and that in fact the whole Household resorted frequently to the district. Yet when the lady did explain her absence from church the Presbytery was easily satisfied. (Lady Yester also was pursued for absence. The steward of Yester even had to make repentance for saying that "he was of the religioun of the crown of the sunne") The Setons however continued their obstructive policy in league with the old minister who was resolved that his own son should succeed him in the charge. The Presbytery thought that the old man was "doing all that lay in him to stay all kynd of ministrie thair eftir his deceis bayth be setting of takkis hurtfull to the intrant and dimitting of the vicarage in favour of

his sone".Forrester although admitting the truth of these accusations, nevertheless justified his proceedings as "things kyndlie".The system of the son succeeding his father was by no means uncommon and a kind of hereditary ministry in some parishes meant an immense saving of labour in the bargaining for stipend which always was necessary when a stranger was presented to the charge.The case was taken up by the Synod. The gentlemen and bailies of Tranent were warned to make a suitable offer.How, it was asked about this time, was it possible for the minister to execute the laws against Sabbath breaking and irreverence when the very persons who ought to have suppressed these abuses were those most guilty themselves(July 1598) The position was grave.Excommunication was the only weapon of defence and the Kirk was really afraid to use it.But in 1599 the position for Lord Seton became more grave.He had received a letter from the King desiring him to receive James Gordon, the Jesuit, through whom James was conducting his Catholic intrigues.Seton showed the Presbytery his warrant but that body was not satisfied.Seton was commanded "to keep Mr James in maist strait maner in a chalmer Qll he be removit" and to urge the King to "make him quitt of him" and when Seton not unnaturally preferred the Royal Warrant he was threatened with excommunication.The process was stayed^{at} the request of the King and Council for a short interval only, but the force of opinion and the publicity given to the incident resulted in Gordon's departure, The duties of minister were now in the

hands of James Gibson who was not so much in awe of the feudal claims of Seaton. In other parishes however there were many evidences of the respect for title. Walter Hay refused until threatened with deprivation to summon his kinswoman Lady Yester. The Kirk Session of Tranent petitioned that A Seaton should not have to make public confession of of faith but the Presbytery refused to sanction feudal privilege in this instance by agreeing to a private ceremony. (June 1601) In June 1602 Seaton's sons were warned to give confession of faith, and after some delay the Master of Seaton and his brother George of St. Germain's appeared in the Presbytery asking conference in respect that "being in France they studeit uther artis nor theologie". In 1604 the young Earl of Winton was again threatened for non attendance and the situation was saved once more by the Dowager Lady who undertook to be responsible for the whole household; ^{yet} but the ministers had constantly to complain that at times access to the Earl was denied them. This type of surveillance must have been very irritating for these noblemen. On both sides, ministers and barons, there was a reluctance to put to the test the strength of the feudal tie as a resistance to the power of excommunication, which recognized no such bond in forbidding any to frequent the society of the condemned. There was less reluctance during the period of the civil war when the barons were once more in regular attendance upon the Presbytery and accordingly Kirk decrees were better respected. In December 1640 the house of

Seaton was definitely recusant, refusing to attend church receive communion or sign the Covenant. The Assembly of 1642 laid down stringent laws as a result of which the Setons agreed to dismiss their Papist servants, surrender their children and submit to conference. But in the following year the servants petitioned that they be allowed to remain and in spite of the Kirk returned. Wintoun made offers of submission promising to concur in Session as a member of the Kirk but the inevitable delays resulted. At last May 1644 it was decided that there should be no more delay and that unless he immediately and publicly swore to observe the Covenant the sentence would be pronounced. Wintoun at once submitted, but the ladies of the house refused, and were excommunicated in August. But feudal ties were not so easily overcome. In spite of her ostracism it was complained that many "diseased persons went to Lady Wintoun (Dec. 1644) and Wintoun ^{himself} was prohibited from saying grace at table while she was present but without effect. In 1647 the struggle was still going on. The popish servants had returned, the tenants had no sense of the evils of conversing with the excommunicates, yet Wintoun himself was praised for the manner in which he maintained discipline in Tranent. The situation was so strange that it was decided that the old Kirk of Seaton should be restored in order that a minister might be near at hand to watch over the recalcitrant family. How could the fines of the excommunicate ladies be exacted? In March 1648 it was stated that people were conversing with them "to affront the minister." Wintoun was told that his house was "a receptacle of

of all that Rotteness which is cast out from other places of the kingdome" and he was asked to settle the fines so that the Presbytery would not have to apply for horning. Lambert and Lilburne and other English Officers were billeted upon Wintoun October 1648 but when he appeared in November before the Presbytery he was threatened once more with excommunication unless he dismissed his Popish servants who had all returned. The question became merged in that of the Engagement. The position for the Kirk was curious. In many cases it had to depend upon persons for the execution of its local decrees as civil magistrate who were most notorious offenders themselves. In 1649 letters of horning were executed against the Papist Ladies and in Oct. a special visitation of Seaton showed a lamentable state of affairs. Excommunication had made no difference to the position of the Ladies. The country people recognized no change. It was as if the sentence had never been passed. Winoun thought that their fines ought not to be exacted since he was building a new Church at Seaton. In the general confusion of 1650 and the English occupation the question was lost sight of in the records but enough has remained to show the extent to which a suspect House could remain for years immune and how the civil magistrate could, within his own bounds if he was sufficiently powerful, practically defy the Kirk and its ultimate weapon. This digression had taken us beyond our period but has served to illustrate the contention that laird and minister must co-operate before the Kirk could achieve its results. The Kirk allied with the feudal influence could rule Scotland. Without it its power was only a moral influence.

The
Organization
of the
Kirk.

Thus the organization of the Kirk in the Country was based upon an alliance between the feudal influence of the Lairds over their tenants and the superstitious influence of the minister as having the power to excommunicate which implied the civil crime of treason and enforced its penalties.

Kirk Session

The Kirk Session to landward therefore was composed of the chief landowners of the parish and their dependents. Often therefore it would be simply another feudal court with the addition of the minister as president. Election if there was any would therefore be purely formal; in cases of doubt the minister nominated the "best affected". The ruling elder whom the minister brought with him to the Presbytery was usually nominated quite arbitrarily by the minister and was always a landowner. Except in extraordinary circumstances these ruling elders were not regular members of the Presbytery, and the Presbytery Records of St. Andrews show the gradual decline of their attendance even at meetings for the appointment of delegates to the Assembly. The result was that the Presbytery's ecclesiastical membership nominated the lay quota. As long as they were a power in the Kirk and able to direct affairs by their influence in Assembly the lairds went in force paying their own expenses. The ministers from 1598 were obliged to pay their proportionate sums for their delegates expenses. If the lairds paid the lay commissioners expenses there is no record of it in the records.

Presbytery The Presbytery therefore composed of the minister of each parish and allegedly one ruling elder from each session met once weekly. Whether the delegates from the Royal Burghs, who were the laymen most frequently in attendance on the Presbytery, had a vote also in the election of the lay commissioners from the Presbytery to the Assembly is not clear but it is unlikely that they exercised the right since the burgh had the privilege of sending its own lay representative to the Assembly.

Presbytery business was largely the consideration of the more important cases of discipline referred to them by the Kirk Sessions but a system of intercommunication between Presbyteries kept the units of the organization informed of all events affecting civil and ecclesiastical affairs. They could assemble the lairds on occasion and kept in touch with the conventions of the shire and particularly the Head Court. Sometimes they had negotiations with the Sheriff himself who was frequently a ruling elder and sometimes a member of the General Assembly. In Haddington he was a party in a suit before the Presbytery. It was complained that he did not put the law to execution, and appeal ^{was} made through the Synod to the King and Council (Haddington Recs. March 1595) The Presbytery encroached upon the realm of civil jurisdiction in that it did not permit ministers to proceed to civil actions against each other but held them bound to abide by the decisions of arbiters appointed from the Presbytery. The Presbytery as the ecclesiastical link between the parish and the shire played an important part in coordinating **purely** local arrangements.

Attendance at Presbytery had a tendency to become slack. For its ministerial membership most Presbyteries had systems of graduated fines. St. Andrews fixed these fines in March 1596 at 6/8 for the first absence 13/4 for the second 26/8 for the third consecutive fault. Any one leaving before the end of meeting had to pay 12d. If the minister who was appointed to exercise was absent he was fined 20/ the second speaker 13/4 lateness in coming to hear doctrine meant a penalty of 40d. In 1604 (April 12th) these were doubled for the ministers who were resident in town. The proceeds were for the "common turnis of the Presbytery" Edinburghs fines were given to the clerk of Presbytery as his fee. (24th October 1587)

Synod

The rise of the Presbytery meant in some ways the decrease in importance of the Synod. Originally the chief electoral unit in the system its bi-annual meetings had been arranged in April and October in an attempt to co-ordinate with the chief Shire Courts. But meeting only twice a year and composed merely of the collective Presbyteries and their ruling elders ^{the Synod} they were not really a link in the representative system although sometimes it was held that the delegates to the Assembly were really elected in the Synod. It was useful in co-ordinating and arranging a definite and uniform programme in general matters concerning the whole province but there was no question of the eventual vote in Assembly being that of the province although individual voters might be censured for not obeying points in their instructions. One thing seems clear that the idea

persisted that the Synod was the most convenient place for the election of the lay commissioners as representing the lairds. This is clear from the Records of the Presbytery of St. Andrews and it was easy for the Synod to co operate with the Head Courts. The Synod was the unit which in 1597-98 was to be responsible for the payment of the commissioners to the Assembly, a stent upon the ministers only although perhaps local arrangements in the matters of collections relieved the minister in part. In the time of dangers the Synod often took the lead. Its General Acts were copied out by its clerk and sent to the various Presbyteries and thus a kind of uniformity of interpretation aimed at. In October 1599 each minister of the Presbytery of St. Andrews was to have a copy of the Acts of Synod upon payment of half a mark. The Moderator of the Synod might upon just occasion appoint extraordinary meetings in intervals between the normal conventions of April and October and sometimes individual Presbyteries wrote to him requesting such assemblies. But the Synod was on the whole cumbrous and the Presbytery was the vital institution in the Kirk organization. The King however used the Synod for purposes of Conference with the civil power e.g. for the vote in Parliament probably with the aim in view of confounding the bounds with those of the old diocese and creating from the Synod his new Episcopacy. The Synod therefore increased in influence under the Bishops but from the time of the restoration of Presbyterianism as a reality and with the return of the lay element as a vital force in the Presbytery the Synod lost its place ^{as} a link in the chain of representation.

THE GENERAL ASSEMBLY

COMPOSITION and MEMBERSHIP

A. The Origins of its Constitution

The importance of the General Assembly of the Church of Scotland from a constitutional point of view and its influence in the development of the principle of representation, lay in the fact that it contained in addition to its ministry a large lay element.

As the Assembly came into being it had obviously aspirations after a representative system with regard to this lay element, which Pre-Reformation Councils had lacked. Although the influence of Lollardism in Scotland and its continuance in doctrinal questions is indubitable, there is no evidence that the representative ideal in constitutional matters was attached to the Reforming movement earlier than the middle of the XVth Century. For although Marsiglio of Padua (Wyclif's forerunner) held the view in his "Defensor Pacis" that for the purposes of ecclesiastical government, the proper organization was a thoroughly representative assembly composed of lay and clerical delegates, his disciple was more concerned with the reconciliation of

(1) Miss J. MacGregor The Scottish Presbyterian Polity
(May 1926) p.9

of doctrines than with the establishment of a system of polity. Lutheranism also was primarily concerned with ~~a~~ doctrine, but Patrick Hamilton brought with him some of the suggestions of the Reformer Francis Lambert of Marburg for a democratic Assembly on lines something similar to that which was eventually evolved.

(1)
But the persecutions drove such constitutionalists out of the country and their influence in 1560 was only indirect.

Wishart's proposals were Zwinglian in origin, for a discipline exercised by the ministry with the support of the magistracy, in which the term "elders" did not obtain. It was this type which was the model for (2) Knox's St. Andrews congregation of 1547. But since the Congregation was in active opposition to the civil magistrate, all power became centralized in the person of the minister. By this date therefore nothing positively constitutional had been obtained. Knox seems to have become a Presbyterian only in 1554 for he ministered in

(3)

(1) i.e. Local Government of the Kirk by the Congregation with the central government in a Synod composed (a) of ministers, (b) visitors, (c) representatives of congregations. The Prince and Nobility were given practically no ex officio powers. (MacGregor p. 11)

(2) ibid. p. 17

(3) ibid. p. 22.

in England under Episcopacy. Organization of the new religion in Scotland was necessarily secret and slow, but the experiment of Frankfurt was repeated by Knox in his native country in 1558, when "by common election elders were appointed to whom in the absence of qualified ministers all promised obedience" (1) But in the matter of establishment of discipline no arbitrary rule could be laid down for even Calvin who stands as the prototype for all subsequent severities, took account of "l'opportunité du temps, les mœurs du peuple et autres circonstances", (2) although of course the prevalent ideal was for a church as universal and uniform as the Roman Church which it sought to displace.

The Zwinglian Church of Zurich was entirely under the control of the City Council, while the Calvinists suffered exile rather than acknowledge the supremacy of the State over the Church. (1538). In the Calvinian model the state officials only acted in the Church as elders although in practice Eldership was confined to the Council in order to render more effective the amicable cooperation of Church and State. This really meant the autocracy of

(1) "We sought open crimes to be punished without respect of persons. For that purpose by common election were elders appointed to whom the whole brethren promised obedience for at that tyme we had na publick ministers of the worde. Knox. I. p. 300. cf. the Edinburgh congregation with its elective disciplinars. (ibid. II. p. 151)

(2) quoted by Miss MacGregor. p. 23

the ministry, along with a compromise which while it ensured amity with the State, vitiated the doctrine of the "priesthood of all believers". The French Church under persecution introduced a more democratic form of government, but these courts, though drawn from all classes, were a self elected close corporation. A'Lasco's (1) Frisian Congregation in London elected its own ministers elders and deacons and the local governing body was by no means a narrow ring.

These Zwinglian and Calvinian organizations were mainly designed for small local bodies. The third type the Hessian Polity of 1526 attempts something national. It consisted of (1) a weekly assembly of all the congregation. (ii) a general meeting of the whole province consisting of all the ministers with one commissioner from each congregation, and in addition (2) the Prince and his Nobles attended. This system allowed (3) for no eldership. The weekly meeting was of the entire congregation, who itself elected the representative to the general meeting. This although never put into execution naturally affected the trend of ecclesiastical thought.

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- (1) in point of fact the Kirk Session in Royal Burghs was just as close. cf. the act of 1642 which gave official sanction to the practice of the old Session electing the new.
- (2) cf. the Presbytery and the Synod in Scotland.
- (3) cf. James VI's practice in having a large body of nobles in attendance on the Assembly to watch over proceedings and vote in his name without any commission as elders.

B. Composition

The curious fact is that although the Reformers had these models to work upon and although the idea of a Central Institution was one of their *a priori* principles, for some years they made no attempt to give definite form to the constitution of the General Council of the Kirk. In fact upto the time when King James began to interfere in its organization, there was a vagueness as to the personnel and composition of the General Assembly and on the question of the electorate which caused variance even among the leaders of Church Policy who were professedly constitutionalists. The representative principle however was early recognized but definition as to the numbers of representatives was unknown. To add to the confusion, the electoral system was entirely altered with the introduction of the Second Book of Discipline, which although it did not receive statutory recognition until 1592 had for 15 years or more been in practical operation, particularly in the return of Commissioners to the General Assembly. References in both Books of Discipline to the Chief Church Court, therefore, are ambiguous. Lists of Sederunts which might serve to show the system in operation, are infrequent, and much of the information as to their composition is only to be obtained by exhaustive examination

of local records both civil and ecclesiastical.

From the beginning the importance of the lay element was remarkable. At the first General Assembly before the final completion of the Policy, although in view of the alleged complete upheaval of the Social State in the overthrow of the Roman Church, one might have expected an enormous concourse of the supporters of the new religion, in point of fact the attendance was small. Only 6 ministers were present along with 36 lay commissioners, and it looks as if the representative principle were already in operation. Of these laymen eleven by obvious title are lairds and the rest must be burgesses or Magistrates, or smaller landowners. By these were represented 10 towns, 3 individual Kirks or congregations as such, 4 large districts or counties, and 4 smaller areas corresponding to some of the Pre-Reformation benefices. Of those whom this group of 42 "ministers and commissioners" thought fit for the ministry the majority were absent, and the Assembly was obviously not satisfied with the representation (if it was such and not merely a kind of mass meeting) for it decreed to a convention of the Kirk in the following month, each congregation should send at least one representative. The individual local church was to be the unit, but all those commissioners who were in attendance were to promise to return in any event. Mass representation would in fact

at this stage be more effective than a rigid constitution

The completed Book of Discipline did nothing to stabilize this constitution. The Principal Church Court or Councill of the Kirk is barely mentioned, its composition left undefined and its duties only incidentally referred to as three in number. (i) to transfer Superintendents (ii) to transfer ministers (iii) to receive from the Superintendents the annual accounts of the financial position of the parishes.

(3)

The institution of Superintendents and their close relation with the State, provided a close parallel, to Episcopacy, and the attempt to force this form of church government upon Scotland for financial purposes resulted in the revision of the Policy on more democratic lines (in form at least) with the introduction of Presbytery. The settlement of 1560 was concerned not so much with a national policy as with the missionary attitude of planting separate congregations. From 1560 to 1574-5 the Assembly expanded its constitution and extended its powers within the limits of the Book of Discipline, until from its merely inquisitorial functions of inspection of

(1) Book of Discipline Knox. II p. 208

(2) ibid. p. 194

(3) ibid. p. 226

of Superintendents and transfer of ministers it came to be the deciding factor in all matters affecting the whole church, and secondly the final court of appeal. (1)

The composition of the General Assembly as recorded in its official sederunts and formal constitution

In the Assembly of May 1561 though no sederunt is given it is evident from the supplication given in to the Privy Council that the Barons and Gentlemen formed a large part of the personnel. (2) but in the next detailed list (June 1562) the numbers are comparatively few. They were composed of 5 Superintendents, 16 ministers, and 16 laymen of whom 7 were lairds, and "diverse in the Merse". Of the remaining 9 laymen whose presence is noted, 3 represented Edinburgh, each for 2 Leith, 2 Holyroodhouse, and one Glasgow and St. Andrews. This was by no means a truly national assembly for the preponderance of the Lothian representation is far too disproportionate. The truth was that the revolution had been accomplished by the Lothian and Fife lairds who supplied the fighting force, and by the citizens of

(1) See Miss MacGregor 1562- examination of all members of G.A. in life and doctrine etc, 1563- hearing appeals from Synods, authorizing the publication of religious books, 1565 To exercise discipline over all ministers readers and exhorters disobedient to the Superintendent.
(2) B.U.K.p.9

of Edinburgh in arms, and these groups thus gained a pre-eminence in the councils of the Kirk which they never lost. Thus in this Assembly 9 Lothian Kirks produced 9 ministers and 7 laymen.

The church however was as yet so small that wholesale attendance on the General Assembly would have been absurd for it would have hindered that missionary work which the church regarded as its main function. The idea emerges however that the Assembly is the High Court in Ecclesiastical affairs to which 'any man' might complain to upon Superintendent ministers elders and deacons. But attendance was restricted thus, with regard to the ministry at least; (i) No minister was to come unless he had a complaint to make, or (ii) was complained upon, or (iii) was "at least warned thairto be the Superintendent". The latter official (1) would thus appear to have great discretionary powers comparable to those of the English sheriff in choosing those Burghs which should send representatives to Parliament. Efforts to define the constitution are to be traced in the Assembly of December 1562 which made one or two regulations with regard to the Superintendent's chief Court where it was

(1) B.U.K.p. 25 14

to be presumed that election of delegates to the Chief Court would take place. It was decreed that the Synod should meet twice annually in October and April, its precise date being fixed by the Superintendent who was to give due warning to the particular kirks. To these meetings were to come the ministers of all congregations accompanied by one elder or one deacon to consult upon the common affairs of the diocese.

(1)

In the next Assembly June 1563 farther regulations were made, and a positive ordinance was laid upon the Superintendent to "warn the shyres, townes and paroch kirks within his jurisdiction to send ther commission: :ers unto the Assemblies in tyme comeing declareing unto them the tyme and place". The Assemblies here mentioned may be General Assemblies, in which case the principle of one representative from each congregation is implied and the discretionary powers of the Superintendent are left untrammelled, but more probably it is the Synodal Assemblies which are being regulated with a view to making them the electoral court for the General Council of the Kirk. Since the General Assemblies were meeting at fairly regular intervals (June and December) elections made in April and

(1) B.U.K.p.29 cf. The Council of Hesse.

(2) B.U.K.p.36

October would require little adjustment. Presumably the discretionary powers of the Superintendent might be reserved for "sudden advertisements" and extraordinary General Assemblies. But definition ^{of} ~~as to~~ the numbers to be sent to the National Assembly was still neglected, and the sederunts give no details, contenting themselves with general statements e.g. "Superintendents ministers and Commissioners were present" (1)

In the following Assembly in December 1563 there was a reversion to mass representation, summoned by Knox in defiance of the Queen. Besides the 9 Lords of Council present, there were "Barons Burgesses, and Gentlemen in great number" (2) who could not have had any official commission to attend. There were in addition 4 Superintendents, the Bishops of Galloway and Orkney, ministers and commissioners. The principle seems to be that although the body of the professors might delegate a few to attend in their names they still reserved the right to come in proper person when danger threatened.

(3)

(1) December 1562 and June 1563

(2) Chatelherault, Argyle, Moray, Morton, Marischal, Glencairn, Secretary Lethington, Wischart of Pitarrow (Comptroller) Bellenden (Justice Clerk). All were apparently present in their official capacity. Miss Macgregor suggests the parallel of the Hessian model whereby one representative from each congregation elected annually was to meet with the Prince courtiers and noblemen (in addition to the Visitors who correspond to the Superintendents). These nobles had the right not only to attend but to vote first and be free to propose motions in their capacity as leaders of the people. This then would explain the attitude of the Scottish G.A. to the Lords of the congregation. (p.87)

(3) Burgh Recs of Edinburgh III. p. 175 "A generale counsale of the Kirk is to be haldin within the Tolbuith... and the nobilitie for that purpos convenit."

The Assembly of June 1564 gives us no personnel save the general notice of the attendance of Superintendents ministers and commissioners of provinces and of kirks and again in December a similar descriptive formula is used,⁽¹⁾ "Superintendents and ministers, with the co Commissioners of Shyres and particular kirks"

(2)

Although the formal sederunt of the next Assembly in June 1565 is only given in the same formula it is clear that many of the nobility attended probably without Commission and the Kirk Convention was really a kind of general meeting of the Opposition, while in the list of the delegates who presented the petitions, effort was made to confine the duty to the lay element - 4 lairds and the representative of Edinburgh.

(3)

Exhorters make their first appearance in the sederunts in December 1565. It would seem that at this stage the Reformers considered the term "particular Kirk" as synonymous with "town". At this time they probably drew no hard and fast rule as to which Burghs should send representatives. It was the "kirk" or congregation which was responsible, although in practice the Royal Burghs would naturally predominate. (cf. however the case of Leith 1560 and June 1562 sederunts) (4)

(1) B.U.K. p.46

(2) *ibid.* p.53

(3) *ibid.* p.60 Lundie, Cunninghamhead, Grange, Spott. James Barron for Edinburgh

(4) see Rait. Parliaments of Scotland .p.252 and note

The Kirk expected the attendance of the Privy Council as Royal Representatives and insisted upon their presence in a way which contrasts strangely with their restrictions upon the King's power to appoint commissioners in later years. In the Assembly of June 1566 the presence of Earls Lords Barons of the Privy Council is noted.

(1)
The Sederunt of December 1566 comprised Superintendents Ministers Commissioners of Shires, Towns and Kirks. In the June Assembly of the following year the Shires are not mentioned. From the fact that Earls Lords and Barons were present it is to be presumed that they were accepted as the lay representatives of the shires though with no official commission. It was however only a preparatory meeting for a full assembly in the following month to which it was hoped the Hamilton party and the "neuters" would come. For this purpose summons were directed to "all and sundrie erlis lords barrons and uthers brethren requyring them to conveine the said xx day of Julii and to that effect appointit also commissioners to present the said missives". There was obviously no stipulation
(2)
that these noblemen must be elders. Although the actual

(1) Huntly(Chancellor) Argyle Bishops of Galloway and Orkney, the Commendator of Lindores and Balfour of Pittendreich. (B.U.K.p.77)

(2) B.U.K.p.93

intention was to convocate the "hail professors of all
 estatiss and degries" special missives were sent through
 the medium of the Superintendents and "^{Commissioners} Quarters of
 Countreyes" to individual Lords and Barons of the
 opposition or neutral party. This was apparently on the
 Parliamentary model and the majority of the recipients
 resented it. The Superintendents and Quarters of Countreyes
 had in addition an open printed commission which they were
 empowered to show to "all men of all estates besides the
 nobility to assist with counsall and power". The persomel
 in fact must have been practically identical with the
 Convention of Estates which met on the same date. The
 62 noblemen and the burgess representatives who signed
 their demands show that this was a recurrence of the
 mass representation of the earliest type, although some
 kind of principle can be traced in arrangement of the
 lay brethren in shires. (2)

In December 1567 the Kirk Records provide
 no details of Sederunts save that there were present
 Earls Lords Barons and Superintendents Ministers and
 Commissioners of Towns and Kirks. Since Parliament was
 meeting at the same time it is to be surmised that the
 (1) Seven Earls, 19 Lords, 6 Barons, 6 Commendators (B.U.K.p. 96)

(2) B.U.K.p. 100 see Chapter II

(3) Edinburgh 4, Ayr 3, Irvine 2, Glasgow 2, Jedburgh 2
 (see under Burghs)

composition of both would be very similar.

In July 1568 there were present in Assembly, "Nobility Superintendents Ministers and Commissioners of Towns and Kirks. But recent events had shown that while the lay element was a valuable asset in time of danger it might become an abuse if it continued to preponderate so far as to outvote the ministerial membership. The Kirk did not object to the presence of laymen in large numbers as a protective and executive force but it set down rules limiting the numbers of those who should register their votes. On a point of information it was formally decreed that henceforth none should have vote in Assembly save (I) Superintendents, and their temporary substitutes, Commissioners for planting Kirks, (II) Ministers brought by these and presented as persons able to reason and having the Knowledge to judge. (III) Commissioners of Burghs. (IV) Commissioners of Shires. (V) Commissioners from Universities. This was really the first attempt to define the personnel of Assembly, and it went farther in defining the method of Election of these representatives.

(A) The election of the ministers and Shire Commissioners was to take place in the Synodical

Convention of the Diocese, "by consent of the rest of

(1) "Give the ordour already received pleases not men be reason of pluralitie of Voyces. B.U.K.p.124 This is clearly an objection to the majority vote of the Lothian and Fife contingent.

the ministers and gentlemen there convened".

Presumably election was by the whole body of the godly who attended the Synod i.e. all the ministers of the province and one elder from each congregation. There is no indication as to whether the laymen should appoint the lay representatives of the shire as a separate estate, although this would later seem to have become the rule

(B) The Commissioners of Burghs were ordained to be elected by the Council and Kirk of the town. There can be no reasonable doubt that the "Council" here mentioned is the Town Council and the "Kirk" stands for the Kirk Session. Individual Burgh Records show that the ⁽¹⁾ Town Council from a very early period took over the whole power of appointment and that the part played by the Kirk Session as such was a very small one the truth being that both bodies had a large common membership and the decision of the Civil Council was thus in effect the decision of a majority of the Kirk Session. Thus in the Burghs already election had got into the hands of a close corporation. It was not stated which Burghs were to have the privilege of

(1) B.U.K.p.124 Miss MacGregor doubts whether Council means Civil Council or the Kirk Session. Even a cursory glance at local records shows the powers exercised by the Lay Town Council in this direction (see Miss MacGregor.p.87)

separate representation but the fact that no discrimination is made ^{suggests} inferred that only Royal Burghs were implied according to ordinary XVith Century use.

None of these commissioners was to be admitted without sufficient written commission from the constituency, and to prevent the system becoming a close and narrow ring of perpetual commissioners it was enacted that they should be changed from Assembly to Assembly. (1) How far this was carried out only examination of local records (in the absence of detailed sederunts) can show.

This system apparently was as much as could be achieved along the lines of the first Book of Discipline. It revealed the preeminence of the Superintendents who formed a permanent group in the Assembly and controlled the Synods which returned such a large part of the representation, in addition to warning the Burghs to proceed to appointment of commissioners. The growth of the powers of the Superintendent was so extensive that the function could not adequately be discharged by one man and still maintain the myth of equality of all ministers. Their duties too closely resembled those of

(1) "Lest ther sould come ane monople and perpetuall election of a few certaine ministers and commissioners" B.U.K.p. 124

a Bishop to suit well with a ministry which was becoming more and more independently Presbyterian.

(1)

The commissioners of the shires in the following two General Assemblies seem to be associated almost entirely with the Nobilitie, for while Superintendents ministers and commissioners of Towns and Kirks are mentioned as being present there is no reference to the shires and the Kirk particularly manoeuvred its meeting to coincide with a convention for "resorting of the nobilitie and Privie Counsell whose presence is very requisite for setting forward the affaires of the Kirk".

(2)

In the Assembly of July 1569 there are noted as present besides the Superintendents and ministers Barons and Commissioners of Towns and Kirks with the obvious inference that the Barons stand for the lay representation of the shires. Although no details are given we can form some idea of its representative character

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- (1) Superintendents though first chosen by the P.C. soon became entirely dependent upon the G.A. Their duties were (i) Preaching; planting kirks (ii) reporting on ministers and parishes with summary powers of suspension until the next G.A. (1565) (iii) To warn shires towns and Kirks to Assembly (?) meetings (iv) Censorship of Books examining doctrine of teachers and doctors in universities. (v) Synods difficulties reported to G.A. by the Superintendent (1570) see Macgregor
- (2) B.U.K.p. 133 Commissioners of Universities are also mentioned as present in the February 1569 Assembly.

from the delegation appointed to go to Perth to the Convention on 25th July. (1) How great an effect political causes had upon the General Assembly is evidenced by the complete abortion of the meeting on February 25th of the following year on account of the murder of the Earl of Moray (2) but postponement until March 1st brought to Edinburgh a large concourse of Nobility all of course of the one faction.

Once more in July 1570 the lay element was strong for the alliance of the Kirk was sought in an attempt to influence the Marian Lords to abandon the Queen's cause. The Nobility and Barons mentioned in the general personnel seem to be purely extraneous in spite of the late acts, for Commissioners of Kirks Provinces and Towns in addition to Superintendents and ministers are also included. The delegation to attend upon the Convention of Estates was again of a representative nature, comprising Superintendents (3) ministers (3) Officers of State (2) Lairds (14) and representatives of threetowns. Most of the extraneous or non commissioned (3) members would be also members of the convention. and

(1) Supts. Angus Lothian Fife Argyle; 8 leading ministers
Lairds: - Braid Whittingham Keir Lundie Barganie
Representatives of St. Andrews Perth Edinburgh Dundee
(2) B.U.K.p. 156
(3) B.U.K.p. 182 Edinburgh Dundee (2) Perth.

the employment of the unrepresented Lairds reveals the reason for the support given to the church by the lesser nobility.

Thus Barons continue to appear in the personnel as a separate estate in addition to the normal lists of commissioned persons from Provinces Universities Towns Kirks and ministers and they were frequently used in negotiations with the Civil Power. (1)

The Convention of Leith January 1571-2 provides one of the rare lists of personnel. In addition to the Superintendents of Angus Fife Lothian, the three Commissioners for planting Kyle Moray and Clydesdale, and 29 other ministers there were present 27 laymen. These comprised 1 University Representative, 11 Burgesses (commissioners from Edinburgh Dundee Haddington-2 each, Montrose Irvine Ayr-one each, and Leith though no royal Burgh sent two delegates from its Kirk) The remaining 15 laymen comprised ten lairds (five for Fife and Five for Lothian) and five Barons who had apparently no commission at all and came in their own right.

(2)
The sederunt was thus at least as numerous as the early

(1) BUK. p. 198 August 1571

(2) Kennedy of Barganie, Lockhart of Barr, Wallace of Carnell, Montgomery of Hessilhead Neilson of Craigallie

Assemblies about whose validity there had been no question. As a result of this body's decisions in the next Assembly of March 1572 the first Archbishop John Douglas is included in the personnel. He had previously attended the Assemblies as the representative for the University of St Andrews.

(1) Earls and Barons are regularly to be found in times of crisis or political upheaval among the personnel of the Assembly, and apparently no particular care was taken to investigate the question of their Commission. There is an indication that they presumed upon their rank to dominate the Kirk's deliberations. (2) but the Church was anxious to have their concurrence and waived a good deal of its formality with regard to commission. The Synod of Lothian in fact petitioned "that the Assembly might be frequent with the Nobilitie and Baronis as weill as Ministers that the face of the Assembly may be had in reverence as in foir tymes" (3) In August 1573 indeed the Assembly meeting in the Over Tolbuith gave special permission to the Nobilitie and Council to sit "within the bar" along with the

(1) B.U.K.p.237

(2) Obedience to the Moderator was demanded from every person "of quhat estate that ever he be". (B.U.K.p.243) (G.A. August Perth 1572) The absence of "towns and

(3) B.U.K.p.265

individual Kirks in this sederunt may be accidental".

with the Commissioners of Provinces Towns and Kirks,
 with the implication that they thereby obtain the same
 right of voting. In fact at this period the General
 Assembly did not consider itself complete without the
 Nobility and particularly the Lords of Council. The
 presence of the Regent it is inferred brought the
 Lords to the councils of the church, without any formal
 Commission which was not apparently expected by the
 Kirk. The feudal element of dependence upon the ancient
 nobility is stressed, and the petition which requested
 their presence was couched in most persuasive terms
 to induce them to come, "the most noble ther of hiest
 Estate joining with the Brethren in voting and authorizing"
 "The tyme that the Kirk will sitt will be short and tyme
 wald not be neglectit and yit the Kirk is not so rigor:
 :ous bot that men may after thair presence givin in the
 Assemblie have libertie as tyme requyres to wait upon
 thair lawfull business" (2)

(1) August 1573 B.U.K.p.269 Because it is understand that
 certaine of the nobilitie of this realme and secret
 counsell are to repare to this Assembly therefor the
 haill brethren ordaines that the haill Nobilitie and
 Counsell with the Commissioners of Provinces Townes
 and Kirks having power to vote sall sitt within the
 barre of the said ovir Tolbuith.

(2) March 1573-74 They ask that "since the Kirk was assembled
 according to the godlye ordinance and lookes to have
 concurrance of thair brethren in all Estates" that the
 Regent and Privy Council "will authorize the Kirk in
 the present Assemblie be your presence or be uthers"
 haveand commission in your Grace and Lordships names
 as members of the Kirk of God, for as your Graces præsence
 and the nobilities sould be unto us most comfortable
 ..so your Grace's absence is to us most dolorous and
 lamentabill wherof follows the want of ane great part of
 the members that weill cannot be absent from these things
 (B.U.K.p.292)

The Regent was so far from agreeing to a joint Council Convention of the Kirk that he even questioned their right to assemble the lieges without his express sanction, and preferred negotiating with them as a separate institution.

Thus the nobility in these years form a considerable part of the composition of the Assembly sometimes as supporters of the Government but more often in opposition. They appear as Barons or Earls and Lords (August 1574 and March 1575) but the lesser nobility (1) (2) may be comprehended in the Commissioners of Provinces. Bishops make their appearance .In August 1575 there were (3) 6 in attendance, but the unrest at the permanent position of these Bishops and Superintendents showed itself in the determination to have no more continual commissioners of Provinces or Countries (for planting and visiting Kirks). These visitors were to be changed as far as possible every year so that the same minister should not appear (4) year after year in the ex officio position of Commissioner. This policy was pursued still farther in the next Assembly of April 1576 when several commissioners were assigned to each district or province so as to confuse

(1) B.U.K.p.299 (2) B.U.K.p

(3) ibid.p.331

(4) ibid.p.336 337

the bounds of the province or diocese and to act as watch dogs over the Bishops. (B.U.K.p.353)

This period was one of definition and preparation for the proposed alteration in the Policy. The position of the University representatives becomes clearer. The Superintendent of Fife in August 1575 disclaimed responsibility for the return of Commissioners from St. Andrews University. He declared that the University itself had the power to appoint delegates to the Assembly and in this case they had nominated the Minister of St. Andrews himself to execute the function.

(1)

The Assembly took care to remind the Barons and Gentlemen to attend in the capacity of Commissioners from the Synod. In the struggle with the Regent over

(2)

Episcopacy they were probably anxious to show an organized and representative institution in place of the mass representation which had its weakness if the Regent could win the Higher Nobility to his side by promises of the fruits of benefices. Morton pointed out in his Questions propounded in the General Assembly of

(1) B.U.K.p.334 Compare this with James VI's regulations for the return of the University representative, for the purpose of excluding Andrew Melville

(2) B.U.K.p.363

October 1576, the weakness of the Kirk in the lack of clarity in the constitution of its Central Court. (1) He asked information as to how many General Assemblies there ought to be within a kingdom, by whom should these be called and for what cause; what form of summons and procedure should be used; who was to preside over its meetings, and of what was it to treat; what execution and penalties were to be attached to its decrees. From the point of view of "personnel" deliberate effort was directed towards inducing the Kirk to define "what persons ought ordinarily to be present thereat" and the penalties for non attendance, how many of these have vote, and and in the event of a minority convening how far they might commit the absent majority. This would seem to be the first organized attempt to get the Assembly to state what constituted a quorum. But most of these questions were left undecided and the same difficulties cropped up under James VI when the 55 questions were sent round the Presbyteries. It was then found that opinions were often very diverse even on such fundamental points. The whole position of the General Assembly was reviewed, (2) whether in fact it was a Counter Parliament or merely one of the Three Estates of the realm.

(1) B.U.K.p.369

(2) See James Melville's Diary pp. 9

But the Assembly of April was attended by other than the fully commissioned and in Oct. 1577 the barons concurrence was particularly invited. (B.U.K.p.391)

The tendency towards the elevation of the weekly Exercise which was the collective meeting of ministers and kirk sessions within a reasonable radius is to be remarked as early as March 1572, when the Synod of Lothian protested that to avoid ill advised or hasty decisions such as had resulted in the Convention of Leith due advertisement should be given of the approach of an Assembly, to the Exercise twenty days in advance so that matters might not be concluded by a few without the consent of the majority of members and voters. (1) In the new schemes of Policy which Committees of Kirk and Parliament were discussing therefore the Exercise or Presbytery established on a new basis became the central factor in the system of return of members to the General Assembly. The civil power was wary of committing itself prematurely to any acceptance of Policy, particularly in the minor revolutions of 1578. The council began to differentiate between the public and private functions of those of its members who attended at the request of the Assembly. Thus in April 1578 it was stated that though Deir and Herries attended to "hear and see" the proceedings of the Kirk they had no power to commit King and Council by their vote, although as private members of the Congregation of the Professors

(1) B.U.K.p.265.

they might make what independent decisions they pleased,⁽¹⁾
 The Assembly was unwilling to recognize the difference.
 They did not want to negotiate with the Council as an
 external body. They wanted to include it within their
 own meeting while at the same time benefitting by its
 official authority in obtaining the execution of Kirk
 decrees. Just as in their relations with Parliament they
 did not really desire to be included as merely one of
 the estates, but rather wished the leaders of Parliament
 as members of the Congregation to come to the Kirk for
 for advice and guidance in the management of Civil bus-
 :iness.

At the General Assembly at Stirling in June 1578
 although it is stated that there were present (i) Comm-
 :issioners of Countries i.e visitors since both Bishops
 and Superintendents alike had been merged into this group
 (ii) Commissioners from Synodal Assemblies. (iii) Towns
 (iv) Universities, the meeting was rare on account of the
 hasty summons at the rumours of "alterations". For the
 first time the assembled brethren doubt^{ed} whether the
 paucity of their numbers would permit of their considering
 themselves a new General Assembly or merely a continuation
 of the last. Though they agreed that they should constitute
 themselves an Assembly it is obvious that these late

(1) B.U.K.p.406

searching questions on constitutional points had made them cautious as to their legal position.

In the Second Book of Discipline which Conference after Conference had debated, there was the same lack of clarity with regard to the constitution of the Principal Church Court, and curiously enough of the new creation the Presbytery. Under the term "Eldership" were grouped both Kirk Sessions and the Presbyterial Assembly i.e. "of particular Kirks and or ma", and the confusion was not even partially cleared until 1586 when the King made a point of enquiring the status. The confusion of course arose from the lack
(1)
of ministers to constitute the new foundation, and especially in the towns it was aggravated where as in the case of Edinburgh for instance it was difficult to avoid confounding the Presbytery with the Ministers of the General Kirk there. In the Assembly of April 1581 debates took place as to whether the representative unit should remain the Synod or whether the Eldership should return members directly without any intermediary. The system which the Court would have preferred was
(2)
apparently on a graduated scale, The Presbytery should

(1) B.U.K.p.605

(2) If it was the King who submitted the articles of dispute. Petrie infers that they were points raised by the Kirk itself. (Petrie Part 3 p.410)

appoint representatives to the Synod which in turn should appoint delegates to the General Assembly. Although the Assembly definitely accepted and registered in its books the Second Book of Discipline rather as an act of protest against the dilatory methods of the Civil "Conferences" there was much that might have been better defined. Thus the Chapter on Elderships Assemblies and Discipline is of the vaguest, especially on the question of Composition. The only clear point which emerges is the insistence upon the right to summon and appoint their own dates of meeting. (1)

The General Assembly was described as ane lauchfull Conventioun of the Kirkis of the haill realme or natioun to which only ecclesiastical persons might repair "to voitt" to sic ane number as salbe thocht guid be the same Assemblie. (2) Its composition was thus left entirely arbitrary and apparently at the will of each individual General Assembly. One class however of ecclesiastical person was excluded both from Presbytery and all higher Courts. The Second Book of Discipline was decidedly retrogressive and proportionately less

(1) B.U.K.p.497 Sum of the Elderis be chosin out of everie particulare comgregatioun to concure with the rest of thair brethren in the commoun Assemblie. ibid.498

(2) ibid.p.500

democratic by deliberating excluding the deacons from membership. The deaconry in fact was frequently the stronghold of the commons who were thus debarred from attendance on the General Council of the Kirk.
(1)

The sederunts of the Assembly give no indication as to whether a new system of election was tried in the October Assembly but the Presbytery was already showing its power in dealing with the case of Montgomery.
(2)

But the lack of definite adjustment soon raised difficulties such as the "certaine doubts proponit concerning Presbyteries" and the answers which were made to these reveal the trend of the Melvinian influence towards increasing the power of the Ministry, at the expense of lay control. Thus in the new system in the Presbytery which was now definitely stated to be the electorate for the General Assembly the rule was laid down that the lay element "such as are associat to the Elderschip for discipline and correction of manners that are not Pastours nor Doctours" should never equal in numbers the ministry but should always be fewer, "the proportion as the necessitie of the
(4)
(5)

(1) B.U.K.p.501

(2) "Quher ther were present the Commissiōners" B.U.K.p.522

(3) B.U.K.p.567 April 1582

(4) B.U.K.p.568 No.6

(5) B.U.K.p.567 No.2

of the Elderschip craves." And they went farther towards making the Lay membership a non essential part of their scheme, for their resort to the Presbyterie was to be no "farther straitit but as the weightines and occasioun upon intimatioun and advertisement made be the Pastours and Doctours sall requyre". The Kirk in fact wanted the feudal landowners influence in time of crisis but had no desire to see laymen organizing ecclesiastical institutions. The equality of all believers was now no longer a reality. It was rapidly giving way to the autocracy of the ministry. It was in fact just this principle which, once the baronial element had obtained recognition as an Estate in Parliament, led to the almost complete disuse of attendance of elders in Presbytery and so eventually to the overthrow of the Presbyterian Polity.

Numbers however as yet to be returned to the General Assembly as representatives were left undefined. The only stipulation made was that the Presbytery be not restricted to choose its Moderator as delegate but have liberty to "chuse such as they think most expedient for the comfort of the Kirk" (1)

In October 1582 there was apparently a return to mass representation, for Parliament was meeting at the same time about to give sanction to the Ruthven

(1) B.U.K.p.568

cf the Constant Moderators of 1606

Raid and accordingly at the General Assembly there were present the "Barrons in great number". They had status in the Kirk, or at least might have, as elders, whereas in Parliament they had no official representation.

Of the next Assemblies we are only told that there "attended the Commissioners" although in one meeting that of October 1583 the rarity of the numbers is commented upon particularly as a defect of the ministers.

(1)
The Black Acts of 1584 effectively put a stop to the Assembly's activities during 1584 and 1585. When the Assembly recommenced its formal meetings (2) in May 1586 the King and a number of the Privy Council were present and this probably accounts for the definitive measures which characterized this Assembly. The representative system seems to have reverted to the Synods, as in fact in times of crisis it had a tendency to do. Even ten years later some Presbyteries were still doubtful as to whether their delegates were commissioners of Presbytery or Synod. These definitive measures established the number of Presbyteries at 51, and categorically settled the question of vote in Assembly. Only those appointed Governors in the Kirk i.e. Ministers Doctors and Elders had the right to vote

(1) B.U.K.p.627 They were alarmed at the threat of retribution for the Ruthven Raid.

(2) B.U.K.p.645

and all others were excluded although they might attend to propose suits or give their advice and deliberation. (1)
 In point of fact this could not have been very rigorously executed. In any case the barons who at this period came in great numbers to the Assembly as if to the General Convention of their Estate, found their remedy in the arbitrary number of representatives who might come from each Presbytery and there was no stipulation that the lay representation should be fewer in number than that of the ministers.

(2)

Bishops of the Superintendent class were once more by way of compromise introduced into the personnel of the Assembly, but although the business to be treated of in the individual Church Courts was classified nothing was done to give greater detail to the Constitution of either Presbytery or General Assembly in their relation to each other.

(3)

In point of fact the growth of the representative principle and the responsibility of commissioners is illustrated from the "instructions" which the young Presbyteries gave to their delegates, but the records of the Kirk tell us nothing as to who these delegates were and information can only be gleaned from local records.

(1) B.U.K. p. 650

(2) The restriction seemed only to apply to the numbers on the Presbytery. The barons were anxious to come and it was only when they had their representation in Parliament and the ministerial claims became extreme that their attendance fell away owing chiefly to the proclamations prohibiting conventions especially of noblemen in arms.

(3) B.U.K. p. 665

Mass representation was once more resorted to in the extraordinary Assembly of February 1587-88. The attendance was so large that it permitted of division into three separate estates (a) The nobility and barons (b) The Burghs (c) the ministers. In point of fact there was a Convention (1) meeting at the same time and the smaller barons at least had good cause to be in Edinburgh since they had been specially sent for by the King to discuss their position in the light of their recently acquired privilege. The General Assembly in truth was not too particular to carry out its own enactments. Many of these barons must have come without commission but according to the Kirk view the national situation warranted extraordinary measures, and the same system must have obtained in the subsequent Assembly of August 1588. But in more normal circumstances in June 1589 (2) it was enacted that "at the convening and loosing of every Assembly the roll of Commissioners shall be called and all absents censured" (3) The Kirk would thus exercise a more careful scrutiny of its members than it had pretended to do in the previous extraordinary meetings. In these there had been no question of vote for their business was largely national

z(1) B.U.K. p.703

(2) ibid. p.729

(3) ibid. p.745

defence against Catholic dangers both within and without the realm, but whenever a question of majority vote came the Kirk took stock of its privileges and scrutiny of its composition.

Under its new Polity therefore the Assembly should have consisted of (a) The King or his Royal Commissioner (numbers were not specified although later it was claimed that he was entitled only to three voting representatives) (b) Ministers composed of i Delegates elected in Presbytery ii The commissioners or Visitors (a temporary expedient) iii The Doctors of Divinity of the Universities, whom the second Book of Discipline under the influence of Melville had introduced ~~to~~ "concur as an Elder with the uther Elderis in all Assemblies". They came ⁽¹⁾ however in their own right but also as representing the University in which they taught. It is doubtful if they ever were elective. This explains Andrew Melville's fury at being debarred when the King introduced a kind of electoral system into the University Representation on the Assembly. (iv) Lay Representatives from the Presbyteries numbers unspecified. (v) Lay representatives from the Burghs- which Burghs and how many delegates each was to send were left also unspecified.

(1) B.U.K.p.495; See Miss MacGregor p.122

Notice the abolition (technical) of readers and exhorters
In point of fact they existed long after this date even
into the XVIIth Century

Yet curiously enough the detailed personnel of August 1590 shows considerable confusion as to the electoral unit. No attempt seems to be made at proportionate representation. Large tracts of country particularly in the North were entirely unrepresented; Shetland Orkney Caithness Sutherland and Bamff had no delegate present either of the ministry or of the laity; Argyle and Ross had one minister each while even Aberdeen had only two. Fife has a great proportion ministers 13, Laymen 19 lairds and two noblemen, but there is no division into Presbyteries and the numbers seem to stand for the joint representation of the Province. Similarly "Lothian" sent nine ministers and nine Lairds but it is clear that this is not the Synod delegation but merely that of the Presbytery of Edinburgh. In point of fact however the majority of the returns show that the Synod was more often the electoral body than the Presbytery, but really no system seems to prevail. The outstanding fact of course is the numerical superiority of Lothian and Fife. If it came to a majority vote they would carry all before them. Of the Burghs present there were only four one of which was no royal burgh. ie. Stirling 2, Edinburgh 2 Wigtown 3 and Leith 2; It seems difficult to disentangle the laity from the clergy in the sederunt except when obvious title is used but the point is dealt with elsewhere. In any case the result shows lack of form and uniformity, the undue power of Fife and Lothian, which might seem to claim the right of settling

by their massed vote the entire policy of the Scottish *Kirk*. This lack of form would make the Assembly a ready prey to the factional interests of the lairds of these districts. The Burghs which in the Parliament were the stronghold of such democratic feeling as existed under the system of close burghal corporations, were but sparingly represented. They had their own meeting in the Convention of Royal Burghs and their interest in the church was thus no political one.

Until April 1593 further details of general sederunts are lacking, and even ^{then} there is only a hint of the predominating influence of the Lothian and Fife membership. Although in the first session business was held up on account of the "rarity" of the brethren, no indication was given as to what was considered a quorum, and the old point of dispute was apparently still unsettled as to how far a minority could hold itself competent to pledge the whole Kirk. The whole question of the vote is an intricate one. The zealous held that the vote and decision ought to follow the opinion of the "best part, quhilk comounlie is nocht the maist", and the "Popes of Edinburgh and the Prophets of Fife" (2) firmly rebutted any suggestion that they were not the inspired of the Lord. Andrew Melville and men like him were prepared to

(1) B.U.K.p.798

(2) James Melville's Diary p.393 The decisions of the delegates of the Synod of Fife on the Royal Questions of 1596-97

secede if and ~~when~~ the majority vote did not coincide with the opinion of the "best", although they were inconsistent enough when occasion served to make it a point of illegality in some Assemblies that no majority vote was taken.

An enactment of the Assembly of May 1594 shows that greater formality was being aimed at, and the constitution of the Kirk has travelled a long way from the time when it could say that members of the lay element were "at libertie as tyme requyres to wait upon thair lawfull business". It was now insisted that (i) no commissioners were to be permitted to depart without licence before the end of the Assembly, and (ii) when commissioners ⁽¹⁾ in spite of having a formal commission did not come at all, they were to be censured and all previous acts on this score (not apparently extant) to be put to execution against them. This was probably an attempt to secure the attendance of ⁽²⁾ the lay element and those ministers who like Mr Walter Hay of the Haddington Presbytery cautiously refrained from using their commissions under circumstances when the Civil Power might question the activities and judgments of the Kirk.

Since 1592 the Presbyterian system had been legally in operation without however gaining definition in the details of its constitution. When after the troubles of 1596 and the subsequent discrediting of the activities of

(1) B.U.K.p.819

(2) ibid.p.848

Assembly as a national leader, the King definitely took over the summoning of its meetings he demanded greater definition of its constitution. The diversity of the answers which were given to the Fifty five Questions which he propounded to the Presbyteries showed how great a want of uniformity there was even on fundamental points. The Synod of Fife's carefully arranged replies exhibited an unwillingness on the part of the church to set a definite limit to the numbers of representatives returned to the General Assembly and a tendency towards an autocracy of the ministers which explains the gradual decrease in the lay support of its policy which was mainly responsible for the final overthrow of its discipline in 1618.

Patrick Adamson in 1583 believed that representation to the General Assembly was to be deputed in the Synod (Melville's Diary p. 150). In 1596-7 the delegates from the different Presbyteries of The Fife Synod decided that none might vote save those who had lawful calling ie Commissioners from Synods and Presbyteries, but in answer to a direct question on the point they apparently agreed that the Synod was the electoral body unless of course they are referring only to the lay commissioners from every Shire. The Cottonian MS seems to agree that the Synod composed of representatives of Presbyteries should appoint the Assembly Commissioners, but the terms are ambiguous and might equally refer to the civil Shire Assembly.

If this is so then the meeting of the Shire would elect Members of Parliament and augmented by delegates from the Presbyteries appoint the shire representatives on the General Assembly. And the parallel would be still farther borne out by suggested number of one or two for each shire on the analogy of the Parliamentary system. In point of fact something like this did take place for (1) records show that the lay element in the Presbytery was latterly not appointed in that body but was chosen by the gentlemen "convening be themselfis". The Synod of Fife however would not commit itself beyond stating that there should be "a certean from everie Province and ^{as for} ~~in~~ the proportion of the laity to the clergy left it entirely arbitrary "as the maters to be intreated of craves" and incidentally claimed that though Commissioners (2) might be sufficient for voting the haill faithfull might attend "giff they pleise and neid be"

The question of the University vote was also discussed, the Synod holding that Doctors and Professors of Theology should vote but giving no clear answer to the inquiry as to the nature of their election. The (3) majority vote was the subject of another interrogatory. The King suggested a twothirds majority, the Synod definitely

(2) James Melville p.396

(1) See Appendix.

(3) James Melville p.395

was in favour of no vote at all until unanimity had been obtained; this unanimous vote which Calderwood says was "wont (1) to be used for no other purpose but to testify an universall consent in a cleered and found out veritie" must really have meant "until the opinions of the "best" ~~de~~ prevailed, and the Cottonian MS has obviously great hesitation in deciding "whether a man ought to follow the maiorem aut meliorem partem". The Assembly when it met in March decreed that a (2) clear majority ought to be the rule, and the zealots obviously regarded this as a victory for the "corrupt" party.

(4) The majority vote gave the Northern ministers an opportunity of making their opinions known instead of being "borne down" by the rhetoric of the Melvilles and in the Perth Assembly March 8th 1596-97 summoned by the Royal missives to the Presbyteries and Synods it was noted that there "conveinit commissioners from all Presbyteries". He had therefore looked upon both Synod and (3) Presbytery as electoral units but with the inference that the latter was the more authentic.

On all points the King was insisting on

(1) James Melville. p. 397

(2) see appendix. No. 29

(3) B.U.K. p. 889

(4) It was this insistence upon the minority vote which during the Cromwellian period led to the complete discrediting and disunion of the Assembly of the quarrel between the Protesters and Resolutioners and their views as illustrated in "The Consultations of the Ministers at Edinburgh" (Scottish History Society)

specification of the legal position. Particularly was this so with regard to the University representation which had never been clearly stated and which in the person of Andrew Melville was largely responsible for opposition to the Crown. James wary of interfering too openly with the General Assembly representation carried out his views from another angle. In a visitation of the University of St. Andrews in 1597 he decreed that henceforth no Doctor Professor or Regent should attend Kirk Session Presbytery Synod or General Assembly. Their place on the Assembly was supplied by one representative. This person under the new scheme was to be chosen by a small Council (consisting of the Chancellor the Conservator Colluthie and three Commissioners of the General Assembly) from a list of three Regents or professors drawn up by the University. This delegate by special order was not to be selected two years in succession. This method was (1) thus in a measure elective. Hitherto the method would seem to have been that they came as representatives of the University quite arbitrarily although the Presbytery in point of fact would usually return them among the Presbyterial Representation. (2) How vague the position was

(1) Spottiswood. III. p. 60

(2) The Synod of Fife had great difficulty in determining their position. All Regents could not attend save those who professed an intention of taking orders.

is exemplified in the form of the King's Question on the point. "Sould ilk Universitie or Ilk Collage or ilk Master or Regent within ilk Collage have vote in the Presbyteries or Synodals in the towns or countries whar they ar. and sic lyk what form of vot sould they have in the General Assembly".⁽¹⁾ The old Superintendent had obviously regarded the University as a separate electoral unit, but the Second Book of Discipline confused the issue by regarding the Doctor as one of the inspired but also an elder and included in the Presbtery's system of representation, while at the same time including "under the name and office of ane doctor the ordour of Scoles in Colleges and Universities".⁽²⁾ The Synod of Fife's view was that "Doctors and Professours of Theology and ordinar instructars of the youthe in the groyndes of Relligion sould vott".⁽³⁾ This certainly limits it to Divinity teachers as apart from other University teachers but the rest is no more definite than before. The King had now obtained some precise arrangement on a representative basis subject to the approval of a joint Civil Ecclesiastical Committee.

The General Assembly of March 1597-98, again under the Royal control and with a large personnel of Members from the Northern districts (ministers) did much to

(1) James Melville. p. 395.

(2) B.U.K. p 495

(3) James Melville. p. 395

stabilize the composition of the different elements in the organization. For the benefit of the far distant provinces a fixed number of representatives was arranged so as to obviate the notorious disproportion of the Lothian and Fife vote. The official personnel records that there were present "The King's Majestie and Commissioners from all shyres and towns of the Countrey" (1) and efforts were made to make the Assembly more truly a national representative institution than it had been. Why after all should writers like Calderwood presume that the Lothian and Fife ministers had more claim to inspiration than their less aggressive brethren of the North. The King's move in this direction was well justified.

The first step towards this definition of constitution was taken with regard to the Synods which in these latter years had come into the foreground. It was decreed that their Acts should be brought for examination to the General Assembly by "thair commissioners direct be them to the next General Assembly". It was likewise complained that "such as uses to be appointed commissioners from the Synodalls to the Generall Assemblie but without any reasonable cause refuse to obey and accept thair commissioun quherthrow it falls out oftentymes that at the Generall Assemblie ther inlakes commissioners from some

(1) B.U.K.P.934

Synods! This negligence it was stated was often on a account of the expenses entailed since by implication the commissioners had to pay their own. It was accordingly decreed that every Synod should "choose out them that salbe thoct most meit to come as commissioners to the Generall Assemblie who sall remaine to the last day of the Assemblie inclusive". To obviate the impediment of expense "the rest of the quhilk number he is chosen" became under an obligation under penalty of a fine amounting to one tenth of their stipend to contribute proportionately to his support. The commissioner likewise was bound to attend under the same penalty of loss of the tenth part of his stipend"

(1)

Thus the Synod was definitely recognized as the body which elected members of the General Assembly but it is to be noted that only the clerical representation is legislated for. The records of Edinburgh and Haddington both show that in difficult situations the delegates to the Assembly were elected in the Synod, as being more convenient for drawing up common instructions but no records of Synods save those of Lothian for a short period are extant and the manner of such elections and the method of taking the vote can only be conjectured. In any case this

(2)

(1) B.U.K. p. 935

(2) e.g. for this very Assembly their representation was appointed in the Synod. Haddington mentions its own deputies to the Assembly as being "ane greit number" It was just this kind of "swamping" that the King desired to correct. Though the "best" decried the majority vote they had no hesitation in using it when in their favour

same Assembly fixed the quota to be sent from Presbyteries. The Theory is a fixed number for each Presbyterye but the Presbytery in normal circumstances must make their choice in the half yearly Synod. This policy while in accordance with the views of the Fife Synod,⁽¹⁾ though hardly the graduated scale of the MS suggestions, yet left a loophole for the introduction of the Bishop which the King had in mind, since if Episcopacy did obtain, the Synod undoubtedly was the Bishop's court rather than the Presbytery.

At last it was definitely stated that henceforth none should come to the Assembly save those who had formal commission and those who had formal complaint to make to the Assembly as the chief ecclesiastical court. Those who had commission were divided into two groups, Presbyteries' delegates and Burghal delegates. "Because there has been no order set down hitherto as to the number of commissioners direct from every Presbitrie to be sent to the Generall Assemblie, Therefore it is statute and ordanit that in all tyme comeing thrie of the wysest and the gravest of the brethren shalbe direct from every Presbytrie at the most as commissioners to every Assemblie". And the Clerk of Assembly was to take particular heed⁽²⁾ "to receive no more in commissioun than thrie allanerlie". Thus the 9 and 10 ministers whom the Lothian and Fife Presbyteries had been known to send were ruled out of Court.

(1) No mention is made of the lay element which inferentially was to make its choice separately.

(2) B.U.K.p. 947

As for the lay contingent from the Presbyteries which in previous days had been composed of great numbers of Lairds it was briefly enacted "And lykeways that ane be direct from ~~every~~ Presbytrie in name of the Barrones". It was not specifically as an elder that he was mentioned⁽¹⁾. The natural inference seems to be that the Baron is elected separately by his own estate. If the Meeting of the Shire coincided with the Synod, as it might quite well do, the Shire meeting would simply proceed from the election of its representatives to Parliament, to the election of the representatives of the Barons of the Presbyteries to the General Assembly. Henceforth in the Presbytery Records there are no traces of the Presbytery nominating the lay contingent as had formerly been the case. The Presbyteries now only return their three ministerial representatives.

As for the Burghs it was set down that there should be sent to the Assembly, "ane out of every burgh except Edinburgh quhilk sall have power to direct two commissioners to the Generall Assemblie". The Kirk thus followed the system adopted by Parliament and the Convention⁽²⁾ of Royal Burghs and there seems no reason to doubt that under the term "Burghs", they include only those which were on the list of Royal Burghs, although there is no record of a Burgh representative being debarred on account of his constituency being an unfree town.

{1} B.U.K.p.947
 {2} Ibid.

Now the Burghs were also expected to send their delegate ruling elder to the meetings of the Presbytery. Did this Burgess therefore also have a voice in the selection of the representation of the Presbytery or if the lay element of the Presbytery convened apart to choose their "Baron" did the representatives of burghs whether Royal or otherwise have any part in the election. [For it is true that the elders who attended most regularly upon the Presbytery and upon whom the Kirk relied for the execution of its decrees were precisely those who had ~~no~~ claim to the title of baron^{of the shire}.] Since no rule was set down on these points it is to be presumed that each Presbytery made what local adjustment it could, and the lay element solved its own difficulties by remaining away from subsequent Assemblies as a general rule. The Kirk had come to mean simply the ministry. e.g. The ministry not the Kirk was to be regarded as the Third Estate in Parliament. It was the natural result of the Melvinian pretensions. The lay lairds were finding their way in^{to} Parliament, and for them the General Assembly had served its purpose by obtaining recognition of the dangers of a baronial class outside the Civil Institution. They could gain little more by espousing the cause of the Kirk and indeed stood to lose a good deal if it carried out its policy with regard to the Annexation

(1) Petrie says (Pt. 3 p. 561) of the Assemblies of 1600 and 1602 "It is to be marked that in the roll of the members is not the name of one Elder as also in the two preceding Assemblies is no mention of any ruling Elder neither Noblemen or gentlemen nor burgess. It is likely that by the proclamation of December 1597 (6?) (P.C.R.V. 344) they were all terrified. This desertion was a grievous mutilation and weakening of the Assemblies".

and the tacks of teinds. The Burghs indeed seem to have continued to send representatives but not on any large national scale, for they had their own institution and since their delegates to Parliament Convention and Assembly were chosen from the same close corporation no revolutionary democratic system was likely to originate from the burgess group.

The General Assembly of 1600 in Montrose gives no light on these difficulties. "There were conveyit the Commissionars of Schyres". The repeated use of the term "shire" from the earliest times is confusing for it was a civil division and did not correspond either to the Presbytery or the Synod though the chief Synods e.g. Lothian Fife Aberdeen Perth roughly corresponded to the Shires of those names "Commissioners of Shires" as a rule may be taken for the Synod Representation but it really is a confusion of terminology though doubtless in the choice of delegates some care might be exerted to secure that the representation was allocated with some regard to the land area. The tendency to lay stress on the Synod is further exemplified in the conference of three representatives from each to discuss the vote in Parliament (3)

(1) B.U.K.p.949

(2) Haddington Constabulary thus returned a separate representation though the Presbytery was within the Synod of Lothian. There were at this time about thirty shires, while the Synods varied from 13 to 16 (the Northern) ones were but ill defined. cf. Rait.p.233

(3) B.U.K.p.946,954,958.

In the Burntisland Assembly of 1601 the sederunt is noted thus . "In the quhilk the King's Majestie with his Commissioners of the Nobilitie and Burrowes were present. If what Petrie says is true, then these
(1)
Commissioners can only mean the Royal assessors, but it may imply that the King was now regarding the Assembly as his institution much in the same manner as he referred to his High Court of Parliament. Perhaps they were the same people of whom Calderwood complained ~~as~~ being present in the Assembly of March 1597-98 and voting in the affair of the ministers vote in Parliament though "laics wanting commission", but now having the authority
(2)
of the King's commission to attend. The situation is capable of several interprestations and individual records which have been examined only supply the names of the ministers elected. Calderwood also records in this Assembly of 1601 a vote on the question of the transfer of the Edinburgh ministers 55 he says voted for 28 against and 6 non liquet a total of 89. All Presbyteries
(3)
could not have had their full complement of commissioners even of ministers for there were 51 Presbyteries in existence at this time, and the lay element therefore must have been negligible according to Petrie's hypothesis.

(1) B.U.K. p. 963 (2) Calderwood VI. p.

(3) Calderwood VI. p.

Of the next Assembly of November 1602 however the full sederunt is given. "The General Assemblie of the Commiss: :ioners from the Presbitries of the Kirk of Scotland... in the quhilk the King's Majestie was personally present (1) He had with him the Secretary the Controller the Treasurer and Sir Patrick Murray. Of the ministry there were present for Orkney Robert Pont, for Caithness George Gladstanes for Ross and Moray Mr Alexander Rawson, these represented the Visitor Commissioner type though Gladstanes was already a Bishop. The other 15 members of the Commission of Assembly were also there ex officio. Of the remaining 84 "ministry" some are grouped according to Synods i.e. Aberdeen, 9, Perth 8, Merse 9, and the others show a return of members from Presbytery by no means uniform but never exceeding the statutory number three. Only two of the Universities return a separate representative who is reckoned among the ministry.

The Lay membership as recorded consists only of Burgh delegates, Edinburgh sent 2, Dundee 1, St Andrews 1, Burntisland 1, while Leith though never a Royal Burgh retains its privilege which dated from the 1560 Assembly and is represented by two members. No Lairds or Barrons save those already noted in the Officers of State appear at all. Thus the 102 ministers are counterbalance by only 7 lay representatives.

(1) B.U.K. p. 974.

The meeting at Linlithgow in December 1606 was not ostensibly a General Assembly at all, since the representatives of the Presbyteries were ⁽¹⁾ nominated by the King as if to Conference with a Convention of Nobility, who similarly were in the King's nomination. Calderwood recorded that there were present 130 ministers composed of delegates from Presbyteries, three as a general rule but five or six from those most favourable to the Royal Policy. The laymen comprised 25 Lords of whom five were the King's official representatives, and 8 Barons or Lairds. Some Presbyteries could not have sent any delegates ⁽²⁾ counting on an average 50 Presbyteries, but in any case large numbers of the ministry attended without the Royal licence, whom the King's Commissioner, Montrose, was afraid to discharge lest the others who had been summoned might also withdraw. This mass representation was in this case almost certainly a mistake since it was the presence of these extraneous ministers "which by occasion made a General Assemblie. The Burghs certainly were not mentioned as being present ⁽³⁾ and it was certainly only a convention of the Nobilitie with which the alleged conference was to be held. No elders as such were therefore in attendance.

(1) B.U.K.p.1022

(2) C.VI.p.609. The Barons were familiar names on the personnel of the Assembly. Balcomie, Kinnaird Torrie Inner weik Sir James Hamilton, Balmain, Wauchton, Balvaird.

(3) Melville.p.683.

On the question of the Constant Moderators however when the vote was taken the result showed:- Affirmative 125 ministers, 4 negative, 4 had no commission to vote, 2 non liquet. Spottiswoods computation therefore seems more accurate .He said there were 136 ministers officially present.

(2)

With the introduction of these Constant Moderators it was feared that the Personnel of the General Assembly would thus consist of a permanent number of perpetual delegates, Moderators and Bishops, but to meet this objection it was provided that the Presbyteries should be free to elect two or three representatives who need not necessarily include the Moderator who in any event had to attend the Assembly. In the formal act it was stated that the Moderator and Clerk of each Presbytery and Synod must be present in each General Assembly to submit their registers for examination, and also by inference to vote. (1) But each Presbytery might send to the Assembly commissioners other than these to the number of two or three. Nevertheless this implied a permanent membership of over 100 officials in addition to the 13 Bishops and the Clerks of Synods. The formal act states that this became law by the vote of 126 ministers and 33 Barons.

(1) B.U.K. 1029 et seq.

(2) SpIII p. 136

The Assembly of 1608 claimed to be the meeting of the Commissioners from the Presbitries of the Kirk of Scotland and the King's Commissioners. Calderwood however definitely assures us that the "Erles Lords Barons and Gentlemen sent for by the King were over 40 in number. This was precisely what the ministry of Fife had feared when they instructed their commissioners to protest that "no noblemen barons or burgesses be admitted to vote in the Assemblie especially in matters of important Kirk Government except those with Commission from the Presbytery and so manie onlie as the order and custome of our Kirk alloweth" (1) It was therefore this lay vote that the ministry feared. They were themselves in point of fact to blame. In previous days they had permitted the Council to vote and had besought the nobility to attend "that the face of the Assembly might be held in reverence". They had raised no objections to the lay vote when the Lords of the Opposition used the Assembly as a Counter-Parliament, and had not limited the number of laymen sent from the Presbyteries while they supposed they supported the ministerial policy. If they were taking their stand as constitutionalists the "order and custom of the Kirk" to which they referred was the production of an Assembly which the zealous regarded as suspect.

(1) Calderwood.VI.p.736

These forty noblemen and barons were therefore present by right of Royal summons. Burghs there certainly were present but there is no indication of their number nor of whether they also were nominated by the King. As will be shown, the Burghs were by this time neutral in their sympathies and their representation in the General Assembly was very similar to their representation in the authority of Parliament, which the King was using to crush the pretensions of the Church. Calderwood describes the situation. "The number of noblemen and gentlemen present at that Assemblie by his Majesties directioun was ~~above~~ fourtie. This putt the brethrein in a great feare that some pernicious conclusioun was to, passe by pluralitie of votes Sindrie of the ministers remembered the Moderator that onlie thrie commissioners were granted to his Majestie by the Acts of the Assemblie". There is no trace of such an act in the registers preserved, and if such a custom existed it must have been of fairly recent growth. Galloway summed up the difficulties of the situation in his famous observation. "If they would cast off the noblemen their conclusions would want execution; for we must pray and preache but they must fight" This is nothing more than the expression of the old dependence upon the

(1) Calderwood VI.p.751

feudal nobility, with the implication that these might on occasion be welded into some kind of Opposition to the Crown should opportunity offer. It certainly was unusual to find them in unanimous agreement with the Royal Policy. The Commission appointed to receive the Royal Answer to the supplication against Papistry (B.U.K. p1053) shows by its composition the relative interests present in the Assembly. There were 5 earls, 11 Lords, 8 Lairds the commissioners of Edinburgh Perth Glasgow, and St. Andrews and 20 ministers along with the General Commission of Assembly although in point of fact they never really held any meeting.

(1)

A detailed list of personnel of the Glasgow Assembly of 1610 is extant. The King's commissioners were four in number (Dunbar, Archbishop Spottiswoode, The President the Secretary,) The nobility numbered 7 Earls and 7 Lords including the Comptroller, There were for the ministry 138 representatives including the Bishops, but no systematic rule is followed. Thirty nine units sent representatives but sometimes they were Synods and sometimes presbyteries.

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- (1) It is improbable that the Constant Moderators as such were present. Haddington at least did not send its Moderator Carmichael. The King's representatives in this instance were officially 4. Dunbar produced the King's letter appointing him Commissioner with power to assume 2 or 3 assessors. He chose Bothian Wigton and the Collector. (C.VI.p.752)
- (2) B.U.K. p.1085

Aberdeen thus as a Synod apparently, sent 16 representatives while Ross on the other hand had only 2. But all in any event were the King's nominees a list of whom had been sent to the Bishops. The King borrowed the zealots phraseology and in his letter to the Presbyteries warned them to elect these men as the "most wise discreit and peaceablie disposed ministers" The University of St. Andrews was the only College which as such sent a separate representative. (1) These nominees of the King had commission from their Presbyteries which varied according to the sympathies of the district. Many had limited instructions, others were to protest etc, but according to Calderwood bribery induced them to acquiesce in the Royal Policy in spite of all limitations of commission.

At the end of the list of personnel there is included a number of barons (13) all familiar names on the General Assembly in former incorrupt times but now drawn over to the Royal schemes. In addition 6 Burghs had their delegates in attendance. Edinburgh sent 2 and Perth Dundee Aberdeen St. Andrews and Glasgow one each. Whether the Burghs also were nominees of the King is doubtful. (2) The Lay element as thus recorded was composed thus The Royal Commissioner and three others; 14 noblemen, 13 Barons, 7 Burgesses. Calderwood however elsewhere states that "there were in this

(1) Calderwood VII. p. 93.

(2) Some of the pamphlets of its time imply they were.
2. addition there were some 'doctors' of recent creation

Assemblie, beside threttein bishops ,threttein noblemen, fourti~~e~~ barons and other gentlemen who had no commission ather from Presbyterie or Synod". Thus computing the lay element at 53. The reasons given in 1638 for annulling this pretended assembly stated that there were no ruling elders sent from the Presbyteries, but computes the lay vote of non commissioned noblemen and barons at thirty.⁽¹⁾⁽²⁾

In point of fact however since the King declared that the church consent was not essential and since he had found the system of the Privy Conference to work so well to his purpose the vote of Assembly whether corrupt or not was of little importance.

The composition of the General Assembly of 1616 in Aberdeen was on lines not quite so rigid. The Assembly was indicted by public proclamation at the market Crosses, and the Sheriffs etc were appointed to warn Bishops Commissioners from Kirks and others having vote in the Assemblie to repair to Aberdeen. by 13 August. The choice of Aberdeen was deliberately for the royal purpose and in order to secure the Norhtern Ministers vote. The King had been paying the expenses of these far distant ministers who couls not have afforded to come otherwise, in order to counterbalance the Lothian and Fife vote. Calderwood is inconsistent in describing this as corrupt .It was just as corrupt for the

(1) Calderwood VII. p. 99

(2) B.U.K. iii. Appendix. p. LI.

zealots to have monopoly in Edinburgh. This therefore allowed for a large proportion of ministers antagonistic to the extreme measures of the Fife ecclesiastics. The Bishops now warned the Presbyteries to appoint their representation. These were to consist of (i) The constant moderator of each (ii) other commissioners. These apparently were appointed by free election and some certainly had restricted commissions but since no roll of commissioners was called these limitations were not recorded.

(1)

As for the lay element it was composed of Lords and Barons to the number of 25 though they had no commission, while its burgh element was also according to the constitutionalists also corrupt in that while only Edinburgh had the right to send two commissioners, in this case Glasgow Cupar St. Andrews also shared the like privilege. IN point of fact the rule had never been strictly adhered to (2) and by the zealous least of all when they were confident of the burghal support. The "reasons for annulling" especially remark the absence of 44 burghs, apparently on the assumption that every Royal Burgh was in the habit of sending delegates regularly. This in point of fact is improbable but in the absence of a series of records of sederunts it is unwise to dogmatize. It is sufficient to remark that the sederunts which have survived do not bear out this view of the complete representation of every Royal Burgh.

(1) Calderwood VII. p. 223

(2) *ibid.*

(3) B.U.K. Appendix. p. LI.

In any event when it came to the vote the lay opinion was specially considered and no regard was taken of communion or otherwise. The King had developed a system of joint conference in fact which did away with the danger of the lay membership ~~by~~ eldership in the General Assembly. If lay opinion there was to be it was to be the opinion of his lords and his barons appointed by himself or warned to come in much the same manner as to a Parliament or Convention. If the Burghs were allowed to choose their own elders it was simply because the King recognized that the method of their appointment was ~~not~~ such as to prejudice his ^{view} laymen in Assembly should have no policy in any wise different from that which they pursued in Parliament or their own Convention of Royal Burghs.

The Assembly of 1617 was composed of ecclesiastical representatives chosen at the Bishops dictation in their Diocesan Synods. Those adverse to Episcopacy who ^{who?} ⁽¹⁾ were chosen he deliberately refused to register. It looks in fact very like a reversion to the methods used in the earliest times under the regime of the Superintendent when the ministers present were simply those whom he chose to bring with him. Even so there were seven out of the 13 dioceses absent and owing to the informality of the summons (only three weeks before the Assembly met) a great proportion

(1) B.U.K.p.1141

of "commissioners from Synods Burrowes and gentlemen in respect of the season of the year distance of the place and shortness of advertisement" would not be present. Whether (1) these laymen would have been the free choice of the electorate or the royal nominees is not stated, but their absence was made the ground of the dissolution of the Assembly when it was found that in spite of precautions the assembled commissioners would not be hastily resolved upon the Five Articles. *archaic*

The personnel of the General Assembly of 1618 was carefully prepared in advance by the Bishops for the summons was not so hasty as Calderwood would make it appear. The Synods were accommodating in their admonitions to the Presbyteries to choose only "such as ar wyse and discreet and will give his Majestie satisfaction anent their articles proponed be his Highnes commissioners in the laitt General Assembly haldin at St. Androis. The Constant Moderators were (2) there ex officio and in point of fact it was they who arranged for these suitable elections in the Presbyteries. Thus the actual Sederunt consisted of (i) The three King's Commissioners, Binning Scone and Carnegie. (ii) Their Assessors the Treasurer Depute, The Captain of the Guard, (Gideon Murray) (Ker of Fernihurst) The King's Advocate (Oliphant) and Sir William Livingston of Kilsyth. (iii) Noblemen 4, (Lothian Ochiltree Sanquhar)

(1) P.H.K.p. 1141
 (2) Synod records Abbotsford Club p.88

Boyd)(iv) Barons 15;(v) Burgesses 10 (Edinburgh 2; Perth 2
Dundee 2 ;St.Andrews 2; Aberdeen, Stirling one each.
Glasgow is also mentioned in the "reasons for annulling"
as having two representatives present while Perth is stated
to have had no less than three, (1)

The University of St. Andrews again is the only
University mentioned as having a separate representation *as such*.
The lay element again received the greater consideration
Noblemen Burgesses Bishops and Doctors with the Royal
Commissioners were given seats but the ordinary ministers
sent by the Presbyteries were compelled to stand as if
merely spectators and no essential part of the conference
between Bishops and Noblemen. The question of composition
and vote was therefore very complicated. Upon a point of
information as to whether all the noblemen, barons and ministers
present should have vote, the Moderator decided that
according to former usage no minister without commission
should do so; But for the Noblemen and Barons who were
come thither upon his Majesties missives, he trusted none
there should denie them voyce specially since in the Ass:
sembly that proceeded at St.Andrews it was one of the
reasons they made for differring the conclusions of matters
that none of the noblemen or Barons were their presant to
assist the proceedings of the Church. (3)

(1) B.U.K.p. 1143

(2) Spottiswood intruded himself on the ground that he must
preside at all ecclesiastical meetings held within his
diocese.

(3) B.U.K.p. 1145; Calderwood VII.p.308

Although the opposition could counter this assertion with the act of 1597-98, the Court had all the tradition of the Assembly's appeals to the Nobility Barons and Privy Council to support the Royal system, which was in fact nothing more or less than the Hessian model. And the policy found its fulfilment in the arrangement of the Privy Conference (B.U.K. 1152). The collective reasons for annulling this Assembly on account of its corrupt composition are formidable. Calderwood states on the score of the ecclesiastical representation that there were absent 4 whole dioceses, Orkney Caithness Argyle the Isles, the 1638 Assembly's reasons added a fifth - Ross. Then as for the numbers of representatives from Presbyteries three, the Statutory quota was by no means regarded e.g. Auchterarder appointed only two in addition to their constant Moderator, but the Bishop of Dunblane co-opted 7 or 8 others. The very appointment of a constant moderator was in itself illegal in view of an act of 1582 (when Presbyteries were fixing their constitution) that the Moderator was not necessarily to be ex officio one of the representatives to the Assembly, while the Bishops had just as little title to be permanent members of the Assembly. The 1638 views added several other corrupt usages in the matter of commission.

(1)

As for the lay corruptions those of the Barons and nobility simply meant that instead of accepting commission

(1) See Calderwood VII.p.333 and B.U.K.iii.App.p.LII.

from

the Church they preferred to accept it from the King, for there is little difference in the actual representatives. as individuals. Numbers of course were reduced to reasonable proportions but had the Assembly been in full possession of its privileges these numbers would not have been much greater. The Assembly had ceased to be of value to the Nobility for political purposes.

Another complaint was the increase in the number of the votes accorded to the royal representatives. Although the King when present only claimed one vote, now, no matter how many commissioners and assessors he sent each claimed a vote for himself. The contrast in procedure is exemplified inconsidering in this connection the incident under Morton's regime in which Herries and Deir figured. They were free to vote as individuals but not to commit the Council collectively. When in the old days the Kirk had repeatedly urged the Council to be present did they deny them vote, or did they have any scruples as to receiving them without commission?

As for the third and last estate the
(the annullers)
Burghs, they went on the assumption that every Royal Burgh sent one representative save Edinburgh. Thus in this Assembly they calculated there were 36 Burghs absent, (1) How did they arrive at this figure. Did they forget that Leith which since it was no Royal Burgh should not have sent any delegates had since the earliest times returned one and more often two
(1) B.U.K.App.p.LII.

The position therefore of the Assembly before the long silence of twenty years was very closely parallel to the Hessian System which had undoubtedly been one of its early models. Its complete submission to the civil magistrate in spite of the ambitious aspirations of the zealots who had for long ruled its councils, was due almost certainly to the lack of co-operation of the lay element in any schemes of opposition to the Royal schemes for Episcopacy. And this apathy of the laymen was traceable to the Melvinian tendency to exalt the position of the cleric by making the ecclesiastical vote exceed in all courts the lay quota. They only desired the lay element for execution of their schemes of policy and discipline, and the barons and burgesses similarly made use, for their own purposes, of the church propaganda. The greatest period of Church power 1588-1596 was possible because Lairds and Church had a common interest in supporting the English alliance as against the Spanish. The Burghs on the other hand were taught by this period of power how detrimental to their foreign trade would be the establishment of the Assembly as a rival to Parliament.

Thus the Kirk demands for the teinds and for the abolition of temporal lordships effectively alienated the nobility; its policy with regard to Spain had warned the merchants and burgesses, and the result was that when the Church privileges were attacked the "commons" and the lesser nobility once the zealous "congregation" watched their destruction with apathy.

The Estate of the Barons in the Assembly

The great numbers of barons who attended the Reformation Parliament found no representative system evolved for them whereby, short of mass representation, they could make their views known as a separate estate of the realm. Their right to attend in force was doubtfully accepted, but resented as an unconstitutional and abnormal method. They accordingly transferred their allegiance to the newly instituted General Assembly, from which no tradition could debar them, and which had every reason to be grateful to them as to the fighting force or the army of the church which had established the new religion. From a very early stage in its development the Assembly had counted on their presence, and twenty years before their estate was recognized in Parliament they had been prominent in Assembly sometimes as commissioners from Synods or Presbyteries, more often under the Parliamentary designation "**Commissioners of Shires**" sometimes without commission at all. (1)

Although their exclusion from Parliament was simply a case of lapsed practice, in their "apology" in the 1560 Parliament, forgetting the acts of 1425 and 1428, they made the grounds of religion their chief contention for justifying their action. They stated that there was no place where they could do better service than in Parliament by giving advice

Page misplaced

A committee appointed in 1564 showed the principle of representation at work, when the lairds nominated bwere chosen as representative of districts. Fife was represented by Lundie and Abbotshall, the West by Carnall Kerse and Kelwood, the South by Wedderburn and Fadownsyde, Galloway by the young Laird of Garleis, George Gordon and another whose name is not given, Angus by Halyburton of Dundee, the North by the Laird of Craig, and Lothian by the lairds of Spott and Elphin: stone. The Lairds therefore are recognized as a corporate Estate, (B.U.K. p. 47) in the Assembly. In Parliament however this recognition was not granted. In that "Convention before the Parliament" December 1567 in which the ministers played such an important part an article was formulated on behalf of the lairds representation, as a corporate Estate of Parliament. They were granted an act whereby the Sheriff was to summon the barons to a meeting of the county there to choose two commissioners to do service in Parliament for the whole barons of the shire, but this act had little execution, perhaps because only the barons were mentioned to the exclusion of the other freeholders. In order to exclude these freeholders the Head Court had to be passed over although it was the natural and obvious place for the holding of such an election. (Rait p. 203)

Thus many of the smaller lairds who supported the Assembly would be denied representation in Parliament. If the Civil Constitution thus limited the elective system the Ecclesiastical Constitution had no such barriers. Was it only coincidence that in the next Assembly measures were taken for

and vote. This implied that their first instinctive move was
 (1)
 to Parliament but that when no legislation was passed in their
 favour they fell back upon the General Assembly. In the Assembly
 of December 1560 there were only 10 lairds (by obvious title)
 present, but as yet the barons were unaware of the power of
 the institution which they had helped to create. For some time
 even it was not thought likely that there should be fixed and
 stated assemblies ^aaprt from extraordinary meetings of the godly
 in time of crisis. Soon however the Assembly was established
 as a corporate body presenting through commissions, petitions
 in the name of "the barons and gentlemen professing Christ"
 Before long the barons were playing a prominent part in these
 commissions and petitions on Kirk affairs to Council and
 Parliament. Their appearance at the early Assemblies was regular,
 sometimes as commissioners of Kirks brought by the Superintend:
 :ent, and sometimes simply in their own right. No definite rule
 was set down save a general desire for their concurrence and
 support. Lairds more than burgesses played important parts in
 such big problems as the consideration of jurisdiction and
 on committees and commissions the proportion of lairds usually
 (2)
 was greater than that of the burghs.

(3)

(1) Rait. Parliaments of Scotland p.200

(2) B.U.K. p.50 June 1564

(3) e.g. June 1565 four lairds to one burgess.

definition of its representation.⁷ Ministers and Commissioners of Shires were to be chosen at the Synod. The terminology is suggestive for the Synod only roughly in many instances corresponding to the Shire. The Kirk was therefore returning ecclesiastical representatives on a civil unit of administration.

These Synods met in October just about the time of the Michaelmas Head Court. Did therefore all the Barons and Freeholders simply pass from one meeting to another. Nothing was said as to whether ministers should elect ministers and the laymen their commissioner but no numbers were fixed. In the absence of early Synod Records everything is uncertain.

For many years the leading lairds in Assembly were Fairly of Braid, Whittingham, Keir, Lundie Barganie Carnell(1) and their names occur regularly in negotiations between Kirk and Nobility and Conventions. In 1570 there were no less than 14 of them employed to deal with the convention(2) and in March 1571 5 of them were on the Commission to confer with the Regent.

The efforts of the Barons to obtain access to Parliament during the troubled times of the Regencies and the lists of those who "assisted" at the elections September 1571 and November 1572(3) show that the same group which was eager for Parliamentary powers was just that which was most active in the concerns of the Kirk. In the Convention of the Kirk 1571-72 the barons present were the leaders of those who attended the November Convention(4)

(1) B.U.K. p. 145, 164, 182

(2) Balvaird, Spott Braid, Carnell, Dreghorn, Lundie, Thornton, Inchbaik & Houston, Drumquhassil Coldenknowes, Carden Fawdonsyde, Kinzean: cleuch. July 1570

(3) Rait. p. 204 A.P.S. III. p. 77

(4) They attended under the title commissioners of provinces but 5 were there simply as barons, Anstruther Balfour Kinninmonth and Westphall for Fife

They were Anstruther of that Ilk, Beaton of Balfour, Kinninmonth
Lundie and Abbotshall for Fife; Braid, Carberry, Elphinstone, for
Lothian; Lauder of Halton, Ker of Fawdonside, for Teviotdale, and
5 Barons whose province was not defined, Barganie, Barr Carnell
Hessilhead Craiggassie; the list of the 28 barons whose names
are given in the November Convention contain most of these. (1)

In March 1573-74 six of the same group were on commiss:
:ions and in 1576 April, Lochleven Wedderburn and Braid were
members of the committee to consider the answer to the Regent (2)
Among the Commissioners appointed to consider the subdivision
of districts to obviate unequal burdens upon commissioners of
Visitations and incidentally to confuse the bounds of the
Bishoprics, were at least 12 lairds by obvious title, but on
the other hand only one "Gentleman" was on the committee to con:
(3)
:sider the Policy and Jurisdiction. The Laird was therefore useful
to the Kirk rather in an administrative capacity than in matters
of "judgment". Nevertheless appeal was made to the Barons and
Gentlemen to come in force to the important Assemblies for
settling the Discipline, as Commissioners from Synods, when it
was felt that a mass meeting of the godly would influence the
authorities in the favour of the Kirk.

In all the negotiations it seems clear that the
power of the barons as an estate in the Assembly has become

(1) A.P.S. III. p. 77

(2) B.U.K. p. 290 Lundie Braid Barr Carnell Fawdonsyde Thornton
B.U.K. p. 352

(3) B.U.K. p. 358 Galloway (Gadzeart) Teviotdale (Fadonsyde) Tweeddale
(Traquhair) Lothian and Merse (Braid, Spott, Hume of Northberwick)
Fife (Kinninmonth) Strathearn (Craigie) Angus (Dun elder and Younger
Aberdeen and Banff (Craig Inverlochie) Argyle was asked to be
present.

concentrated in a central group not entirely confined to Fife and Lothian, but tending to do so just as the power of the Assembly itself became concentrated in the Lowland Provinces. (1)

Presbyteries were by this time in process of construction. The system although at first ill defined was on the same principle as the Synodall. Each parish was represented on the Presbytery by the minister and one lay elder. This elder in practice was invariably the chief landowner of the parish but although in theory he ought to have been elective by the Session he was always nominated by the minister himself, a tacit agreement that the chief baron upon whom the Kirk was dependent for execution of its decrees was entitled to a voice in the Council of the Kirk. The Presbytery system was supported by the Barons because through it, irrespective of their godly pretensions they hoped to obtain an influence upon Government, either directly, or through the medium of the Assembly. The Assembly, for them stood for the meeting of the Smaller Barons as a separate Estate; for they could not hope to exercise much power in the Convention of the Nobility to which both great and small nobles might come. In the Assembly they were freed to some extent of the family system which hindered their independent action as a separate Estate.

In the conference with "sick as salbe be depute from the Burghs (1579) the Lairds quota of representatives was 10, (2)

and if such a conference really took place it must be regarded

(1) Lundie was employed more frequently than any one else. B.U.K. 413 432 etc. Braid and Fadownsyde came next in importance (418 eg

(2) B.U.K. p. 436 A very large number of Ministers went also. All the commissioners of Provinces and 4 other ministers and 2 doctors.

as a tentative effort to combine, for the purpose of address:
 :ing Parliament, the Lairds and Burgesses into a Third Estate ,
 despite the feudal ties which bound the lairds to their relat:
 :ives the Higher Nobility. They were Lundie Braid, Elphinstone
 Carnell Barganie Carlton Abbots~~hall~~ Cessford Coldenknowes
 Kinninmonth. These lairds were certainly all present in the
 Assembly. Lundie however was also a courtier, and was Royal
 Representative in the Assembly of July 1580, but this did not
 prevent him joining the delegation of Lairds ministers and
 burgesses which presented the usual articles to the King. On
 such commissions the lairds always took prior place as befitted
 their rank. (1) The Laird representation was more constant than
 that of the burgesses and they were more frequently and more
 numerous used in commissions. Their power in the Kirk was
 increasing as the Kirk required their support for the achieve:
 :ment of her Policy. They had begun to be appointed to the
 Privy Conference. In the Assembly of April 1581 which passed
 the "Discipline" the Laird of Caprington was Royal Commissioner.
 Calderwood's collective list of the members of Assembly (1578-1581)
 illustrates the preponderance of the Lothian and Fife element
 both laymen and ecclesiastics. The number of Lairds^{were} for Lothian
 15 alone, 2 for Tweeddale, 5 for Nithsdale, 7 for Ulydesdale Renfrew
 and Lennox, 3 for Kyle etc, 10 for Fife, 7 Noblemen including
 Atholl and Montrose for Dunkeld Strathearn etc. All these of course
 were not present in one and the same Assembly although Calderwood
 (1) Lundie Braid Colluthie Keir Carlton 11 ministers 3 burgesses
 B.U.K. p.471
 (2) C.III. p.527

assures that many of them were present in them all. This was sufficient to show that the Assembly was the gathering ground of the Smaller Barons as a separate unit in the State..

In the Assembly of 1581 October, important as coincident with both Parliament and Convantion of Burghs, and as providing a definite discussion upon the ecclesiastical vote in Parliament, the lairds seem to have been present in force. Excluded from meeting in Parliament they resorted to the Assembly as to their Separate Estate Convention. Although thus having no representation in Parliament themselves it is remarkable that on the committee appointed to consider the Kirk representation in Parliament no fewer than 12 Lairds should find a place ^{with} among the burgesses (7) and the ministers (14). It is extremely likely that the barons thought that some kind of lay representation of the Kirk in Parliament might be adopted as was definitely put forward in 1599⁽²⁾ when the zealous were protesting against the Prelacy Vote of the proposed scheme of Kirk Representation. That such a scheme should enter their minds at this time is not improbable. The act of 1567 was inoperative although barons were taxed along with the other Estates. There always was doubt among certain sections of Kirkmen as to whether a minister might likewise exercise civil function as a member of Parliament. The solution of the laird elder as a member of Parliament for the Kirk could not have failed to be suggested. The Kirk decision did not exclude

(1) B.U.K.p.526 They were Faddowsyde Coldenknowes Keir, Carden, Colluthie, Morphie Braid Fintrie Dalmahoy Cowhill Carlton Seggie.

(2) The conference of Nov. 1599

such a compromise. The transfer of the civil and criminal jurisdiction, ^{of the Bishop} to the heritable bailie was certainly a clause in favour of the Baron, and the "Commissioner" from the Kirk who was to replace the Bishop was not defined as being either minister or layman. (2) Lairds present on the commission to present the Kirk articles to Parliament or rather the Lords Articles were only two in number. The burgesses were more important at a time like this for they could influence the Committee of the Articles directly in that they had duties themselves upon that body. The Lairds were completely excluded from such representation on the Articles; their hope lay in the General Assembly upon whose committees and commissions they were obtaining a permanent and recognized place, both as individuals and as an Estate.

(2)

At the Change in Government occasioned by the Ruthven Raid the Barons probably expected some reward in the shape of Parliamentary Representation in return for their support.

At the June Assembly 1582 expecting a Parliament they were present in great numbers. Although Parliament viewed with grave suspicion the tendency of the Smaller Barons to attend in times of crisis in overwhelming numbers, as being contrary to settled government, the General Assembly being usually in Opposition had no such scruples when it suited ^{its} ~~her~~ own purpose. If the commissions granted by the Presbyteries at this time were as compreh:

(1) B.U.K. p. 527

(2) *ibid.* p. 545 ; see the Privy Conference of April 1582
6 lairds all of Lothian and Fife. B.U.K. p. 548

comprehensive as those of which we have record some few years later the numbers of lairds present at each Assembly formed in themselves an electorate large enough for such a purpose. Yet in the proposed dealings with the Parliament "when its sall happin to be haldin" the lairds names are surprisingly omitted and the commission was confined entirely to ministers. The Lairds had no influence inside Parliament. Like the Kirk they were still supplicants. Even in 1582 (B.U.K.p.606) in their dealings ^{of the Kirk} with the Parliament (October) the barons were not yet definitely prohibited from the possibility of representing the Kirk in Council and Parliament as lay elders. The terminology of the reply to the Council's request as to who should sit in Council and Parliament in the name of the Church was capable of interpretation in favour of laymen provided they had commission from the Church for that effect. "None should vote in the name of the Kirk bot they that bearis office in the Kirk and are authorisit with commissioun of the Kirk to vote and sitt there" (1)

The Black Acts with their prohibitions and their efforts to exalt Parliament and its prestige at the expense of the General Assembly which had so seriously rivalled it, prevented further attempts at representation of the Lairds through the medium of the Kirk. But significantly on the return ^{of the Lords} and in their first Parliament, although refusing the Kirk demands the English Protestant Party was prepared to give the Kirk allies a share in (2) Government. The exiled Lords dreaded just as much as the King the

(1) B.U.K.p.606

(2) A.P.S.III.p.422 see Raft.p.207

combination between the Kirk and the Estate of the Barons. Although James Melville graphically describes the despair of the ministry at that Parliament of Linlithgow there is no indication of any joint action between the Kirk and the Lairds in this instance and the delegates of the Kirk (if they were delegates and not merely an arbitrary number) were all ministers ^{to this Parliament}. The Lairds petition of 1585 referred to the need of the commons for representation; the view was precisely that of the Kirk which held the common people sufficiently represented in their Assemblies if their feudal superiors were present in Presbytery and Assembly. (1)

Whether this Proposal of 1585 (which was referred to the decision of the King until the next Parliament) affected the decisions of the Assembly in any way can only be inferred. The King certainly had considerable influence in the Assembly and there may have been a suspicion in the minds of both ministry and King that the Lairds were making the Kirk too much the instrument for obtaining control of Parliament. In any case the determination of the Kirk on the point of its membership comes at a most apposite period in the history of the Baronial representation in Parliament. It was decreed May 1586 that henceforth vote in Parliament should be confined to the Governors of the Kirk i.e. Ministers Doctors and Elders. This would infer that the Barons had not been too particular ⁽²⁾ as to commission from Presbytery or Synod and had been pursuing the

(1) A.P.S.III.p.422 Rait.p.205

(2) B.U.K.p.650

policy of mass representation which had compelled Parliamentary action when applied to their attendance on the Parliament. The Parliament which passed the Act for the Commissioners of the Shire had been preceded by a General Assembly in which whether by accident or not no reference is made to any baron in the personnel of the Assembly nor was any one mentioned upon the commission to present the Kirk Articles to Parliament. The precepts issued to the "bischoppis and abbotis erlis Lordis barronis provostis and baillies of burrowis" in June 1587 (1) provide no details as to individuals. How far the personnel of the General Assembly was affected is hardly possible to determine. Election and the electorate for the Baron Elders upon the Assembly was very uncertain. It is not probable that the 40/ restriction extended to the return of the Assembly representatives but the Kirk had had a habit of grafting itself upon such civil institutions as existed in the localities e.g. the Town Council, and when an election came to be made it is probable that civil distinctions would be followed. The humbler tenants in chief who were excluded by the act were normally too poor to pay the expenses of delegates to the Assembly. In practice the Kirk dealt only with the leading barons of the district but no class distinction by the constitution of the Kirk was possible. Such practices as emerged were simply the result of empirical processes. The Kirk and its organization of the mass meetings of Barons did not recognize difference of holding. In practice those who were accustomed to lead in both civil and ecclesiastical

(1) Treas. Accounts. MS. Register House. June 1587

affairs would be the chief men of the district most capable of having their will carried out i.e. Crown Barons who had the right of holding baron Courts.

(1)

The provisions of the Act of 1587 that the annual elections should take place at the Michaelmas Head Court were convenient from the Kirk point of view for the end of September or the beginning of October corresponded with the date of the half yearly meeting of the Synod. The Commission of the Shire delegates required the signature of only 6 barons to make it valid. The Presbyteries often sent as many as that themselves to the General Assembly. The payment of the £40,000 undoubtedly had something to do with the reluctance of the Barons to return representatives, but it must be also taken into account that the Kirk did not approve by any means the purpose for which these funds were to be used i.e. for the defence of the Queen Mother. The reluctance of the Barons to pay may have been strengthened by the representations of the ministers. Precepts were not issued from chancery till 1594 when the normal return was in working order. The Convention of the Wacriff (if it was in this January 1587-88) would therefore be strengthened by the presence of the barons or some of them in Edinburgh in January for consideration of the question. (R.P.C. IV. p. 245)

In the extraordinary Assembly of 1588 February the barons and gentlemen met as a separate Estate although certainly they included a few Noblemen of higher rank and the evidence seems to point towards an attempt of the Kirk to keep
 (1) "Thomas Middleton" App. to Spottiswoode's History 1677. p. 62
 (2) B.U.K. p. 704

the New Estate in as close alliance with the Kirk as before.

Our suppositions are reinforced by the evidence of the Local Records. Edinburgh shows that to the June Assembly of 1587 while it was known that the effort was to be made to introduce the barons into Parliament, no Barons from the Edinburgh Presbytery were appointed. The meeting according to their phraseology was a general convention of the ministry and only four ministers were nominated. Their efforts to get into communication with the convention of nobility seem to indicate an anxiety lest the barons would desert the Kirk. In October the complaint was made in Presbytery that the attendance of the barons and gentlemen had fallen away. Was this in expectation of their increased influence in Parliament. The Collection for the French Church for which the concurrence of the barons was desired was on the face of it a counter blast to the "taxation" whereby the barons had bought the right to sit in Parliament. Even the ministers were slack in attendance however and fines had to be imposed upon them, and the general apathy is noted, for the ministry were exhorted to "travaiill with their parishioners bayth great and small" to counteract the "greit cauldnes of many in religion". Their industry was rewarded by the profession of the gentlemen to

maintain Religion at all Hazards. This agitation accounts for the

(1) Edr. Recs. MS. 2nd May 1587

(2) ibid. 27th April, Pont Simson Bradd and one of King's ministers

(3) 11th April ibid.

(4) October 17th 1587 "Anent the greit necessitie that ther is of the baronis and gentilmen quha wer anes nominat and chosin eldaris to concure wt. the brethrin of the ministre It is thocht good that the baronis and gentilmen quha wer chosin to be eldaris at the first erecting of the Presbytrie salbe desyrit be the brethren of the ministrie to be present the last of this instant"

(5) 24th October 1587 fines of 30d for missing exercise. 18d for lateness doubled etc according to the repetition of the fault the penalties to be given to the Clerk.

action in the provinces against Papists and also for the numbers of the barons and gentlemen present both at the the Convention of the Wacriff and at the Assembly called by that meeting. Most probably the date of these Assemblies was fixed after consultation with the barons who were warned to attend to discuss the vote in Parliament (see discussion (1) on the Convention of the Wacriff)

Adamson's attack upon the Synod of Fife might equally well have been applied to all kirk Courts at this time. "Albeit they denie your Hienesse authoritie in the Kirk notwithstanding they authorize the same in suche gentlemen as it pleases them to conveene for the tyme for suche purpose as they have in hand." This accusation was perfectly true in relation to (2) the Edinburgh Presbytery where the elder-barons were scarcely ever present except for some special occasion and the similar fault was to be found in the Synod although the Head Court had a tendency to ^{make} ~~make~~ the laxity of the lay element less apparent.

The anxiety of the Kirk to retain their support which was of course essential for their schemes of national defence was further illustrated in the Haddington Visitations of the summer of 1588. Several of the Churches had no Sessions owing to the quarrells of the "principalls of the parish" and sometimes even the ministers visiting, could find no "auditors" (Barns July '0)

The local minister did not like to be criticized by persons
(1) See the Royal Letter of Nov. 4th 1587 to the commissioners of the shires"

(2) C. IV. p. 513 The Synod of April 1586 The majority were barons and gentlemen who voted first. J. M. p. 247 said most of the landowners were elders in any case. See Sp. II. p. 337 "Melville called a number of barons gentlemen and ministers as to Synod"

of humble rank. It was complained "that the commounest sort
speak maist against the ministeris"

(1)

St. Andrews Records contain no evidence as to the
light in which the Kirk viewed the Admission of their allies
to vote in Parliament. They were concerned with local feuds
between lairds and ministers which often became so serious as
to necessitate appeal for protection to the Privy Council.

(2)

The first clearly recorded election of both ministers
and barons to the Assembly took place for the remarkable
"Armada" Assembly of 1588 August. Edinburgh sent no less than
7 lairds and 8 ministers Haddington included in its represent:

(3)

ation 7 noblemen and the representative for the Town of
Haddington (which was really a separate constituency) and only
two ministers. St. Andrews records are defective. Now it is
unlikely that these lairds were present for the ordinary business
of Presbytery. While the ministers ~~elected~~ the ecclesiastic
delegates by vote it seems clear from the Haddington entry that
the noblemen were nominated in absentia for the minister was

"to advertise them" of their appointment. A group of ministers

(1) Pres. Recs. Haddington. MS. 5th June. 1588

(2) Pres. Recs St. Andrews. begin 13th October. 1586 see the case of
the Laird of Carslogie and Patrick Arthur.

(3) Merchiston Pilrig Braid Colinton Carberry Smeaton Mc. Gill of
Rankeillour; these would be the ruling elders of their parishes
ruling elders were normally nominated By the ministers.

(Edr. Recs. 4th August 1588)

(4) Haddington Recs. 17th July. 1588 Lord Yester Elphinstone
Hume of North Berwick, Blauss; Fawdonsyde; Trabroun; Schethin;
the name of the Commissioner for Haddington was left blank
for election by the Town Council and Session of Haddington

thus controlled the nomination and election of the lay element which was presumably willing to be called upon to attend the Assembly. The Chief Man of each parish was normally nominated to be ruling elder, and by putting as many as 7 ruling elders in Commission the Presbyteries were ensuring that at least a few of them would put in an appearance. The enormous power wielded by this and subsequent assemblies leads us to infer that the whole number nominated went. There was nothing to prevent as many as desired commissions from receiving them from the ministers of the Presbytery.

Thus ~~instead~~ of being restricted to two per shire in their representation in Parliament with the additional obligations of the "contribution" the Barons in Assembly practically maintained the right which they preferred to come in such numbers as they pleased and at such times as they pleased. The reluctance to accept the Parliamentary vote (Rait p.209) may therefore be explained in some measure by the more attractive Kirk system which did not ask money from them but rather their personal service in national defence against the Spaniard. The precepts issued in May 1589 show no such mass representation for the Parliament ^{in October} although they contain some names familiar on the Assembly.

(1)

In June of the same year 1589 the Assembly met. Edinburgh alone sent 10 ministers and 6 lairds ⁽²⁾. Haddington to the same

(1) John Leirmenth messenger in passing of Edinburghers, warned McKenzie of Kintail, Urquhart of Cramartie, Campbell of Caddell, lairds of Findlater Drum Thornton Constable of Dundee Laird of Wester Wemyss. Yester was warned as a Lord of Parliament yet he attended the Assembly as a delegate for Haddington in June Assembly. In the Haddington shires "certane commissioneris were to accept thair new voittis in Parliament" Later Dundas Carden Carse Mueschet Kilrewth Tullibardin Bathyet are mentioned. Treas. Acts June 1589

Assembly sent 7 noblemen and three ministers. The system of nomination in absentia is still prevalent for the ministers (1) were to "speik the baronnis and gentilmen to compeir at the generall assemblie to be halde at Edr. the xvii of Junii nixtocom⁴. Apparently they were ignorant of their commission (2) until informed by their parish minister. It may of course mean a general warning to all the **barons and gentlemen** to attend. If this were so it was little wonder that the Civil Government looked with some suspicion upon the "Kirk" conventions.

To the March 1590 Assembly the Edinburgh Presbytery sent 7 Lairds and 6 ministers. The lay members are almost constant and simply represent the chief landowners of the district irrespective of their "godliness" which according to principles ought to have been the first consideration. Haddington sent 6 lairds and 4 ministers (3) But while there is every reason (4) to believe that these great numbers of laymen did actually attend the Assembly the King's avoidance of Parliament and his use of nominated conventions prevented any real test as to their preference for Civil or Ecclesiastical representation. (5)

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- (1) Edinburgh: 10th June 1589 Merchiston Pilrig Braid Colinton Carberry Smeaton
Haddington: 4th June 1589 Lord Yester, Hume of North Berwick Trabroun Saltcoats. Blauss Loshkelpie Elphinstone
- (2) Haddington Recs 4th June. 1589
- (3) Edr. Recs. 25th Feb. Merchiston Pilrig Braid Corstorphine Colinton Smeaton Carberry
- (4) Haddington Recs 25th Feb. 1590 Yester Clerkington Hermanston? Elphinstone Fadownsyde George Hamilton (Samuelston)
- (5) The Convention of Estates at Holyrood June 12 1590 contained only 6 barons Barnbarrach Largo, Lundie Tullibardin Wedderburn Hume of North Berwick (Ret. of Names. II. p. 539) but other lists A.P.S. provide the names of the Clerk Register Coldenhowes and Ormiston.

The defects of the Registers of Haddington and Edinburgh for a short period are however supplied by the fortunate preservation of the full sederunt of August 1590 which shows a total personnel of 162 members of whom 86 were ministers ^{or noblemen} 67 Lairds, and 9 burgesses. Haddington had three barons and three ministers present. Edinburgh had 9 ministers ⁽¹⁾ and 9 lairds ⁽²⁾ St. Andrews appointed according to its MS Register 3 representatives ⁽³⁾ but in the list given none of these appear in the Fife contingent which as a Province returned 13 ministers and 19 lairds and Lord Morton and Lord Lindsay. Where were these 21 laymen elected for it was certainly not in the Presbytery? The inference must be that there was either simple nomination by the ministry or Presbytery which is not recorded or that the shire met by itself and appointed its own comprehensive delegation, after the manner of a Shire Convention

While Edinburgh thought that the Assembly was to be held in Aberdeen (July 1591) it elected on May 25th only 4 ministers and three laymen, but when the meeting place was ⁽⁴⁾ altered to Edinburgh itself as usual it increased its representation quite arbitrarily and appointed 6 ministers and no less than 8 Lairds ⁽⁵⁾

(1) Clerkington Elphinstone Cashekejohn

(2) The usual group Merchiston Colinton Corstoephine Braid Dalmahoy Carberry Smeaton Preistfield Rochbank (B.U.K.p. 765)

(3) The number of Higher Nobility present altogether was not more than 5. Some districts like Angus sent no laymen at all. The arrangement was quite arbitrary.

(4) St. A Pres. Recs. July 30th Moncrief minister of Kilconquhar Robertson Regent in the New college and an elder Monypenny (Dean of the Faculty) No Synod seems to have met to reverse or alter the election.

(5) Ear. Recs. MS. 25th May Braid Pilrig Smeaton

(5) June 24th Edr. Recs 1591

Thus it may be seen that a fixed and definite group of land: owners of a certain status have gradually taken into their hands or rather have had thrust upon them the whole and the constant burden of representing the Presbyteries in which they live.

Parliament and Assembly met contemporaneously in May 1592. At the Parliament the Lairds were certainly present for they had their full quota upon the Lords Articles (1) It is suggestive under these circumstances that Edinburgh (the only One of our three Presbyteries to make a return of members to Assembly) should mention no lairds among her delegates. This was the Parliament of the Golden Act and it was also the first Parliament in which the Lairds had had an opportunity of using their new powers; for no Parliament (save the hypothetical one of October 1589) had been called since that of 1587 which had given them the vote. Certainly those Barons on the Articles were rather Court officials in the main than those prominent in the Assembly's Counsels but their presence as a class probably facilitated the passing of the "charter of the Scottish Church". Why however did the Edinburgh Presbytery omit its custom of nominating its barons to Assembly? Was it a confession that the Barons meeting as

(1) Airth Barnbarroch Bass Colluthie Glenurchy Pitarrow Tullibardine Wedderburn (Ret. of Names. p. 540)

(2) Pres. Recs Edr. MS. 9th May 1592 Seven ministers were appointed Bruce Pont Lindsay Balcanquhall Balfour Craig Duncanson

a separate Estate were equivalent to the Barons of the Assembly. From the absence of any indication of the presence of the Burghs it might almost seem that when Parliament was favourable to Church Schemes, Barons and Burgesses went to their allotted place in Parliament, leaving the General Assembly the one unrepresented Estate outside Parliament and composed entirely of ministers.

The Barons had gained representation in Parliament without the Kirk. The petition ^{of the Assembly to} ~~in~~ the Parliament (which had given the Barons their independent vote) had demonstrated that the Kirk no longer harboured any idea of laymen representing her interests in Parliament (see History of James the Sext. p. 232) although she was still debating whether a minister could lawfully exercise vote in Parliament in this very Assembly May 1592. The establishment of their allies the Lairds and the fear that they might transfer their allegiance to Parliament probably were incentives to urge the Kirk to more serious consideration on positive lines of her rights in the Civil Institution.

Having roused the King to activity against the Papists and dictated his line of policy mainly by means of the fighting force -- the barons (although it would seem that those present were probably only the barons of Lothian Fife and the adjacent counties) the Presbytery of Edinburgh had to bestir itself to collect the dues from the barons which the extraordinary Convention ⁽¹⁵⁹²⁻⁹³⁾ had promised. While the Convention of Burghs agreed to pay for ⁽¹⁾ the foot for the Royal Guard the Presbytery undertook to collect

the baronial contribution. The Kirk encountered the same reluctance to pay that the King had experienced. Particularly were the gentlemen of Glasgow unwilling to admit that the ministry and a few barons and burgesses had power to commit their whole estate to a taxation and uncompromisingly stated that the "actioun was meir civile and thairfoir thair thocht it nocht pertinent to the ministrie nor thair calling". They preferred the feudal method of going to fight in person for their lord. There is other evidence that the lairds were beginning to resent the interference of the ministers with their feudal rights, especially in the matter of retention of the "Egyptians" St. Andrews Presbytery had so much difficulty in bringing in the "voluntary contribution" from the noblemen and barons which has not paid as yet that nothing of importance seems to have been done until the formal Royal charge came. The Presbytery then wrote letters to the Lairds of Cambo Balcolmie Largo and Kirkton who had been nominated collectors to urge them to bring their lists to show how they stood. Now the first two named were the commissioners of the shire for the year and it would seem that already Kirk and Civil organization were coalescing.

(3)
The Barons in the Assembly of April 1593 in Dundee seem to have been numerous although at first the assembly was so ill attended that it was doubted if they might hold a meeting. Although the Edinburgh Records do not give any information it is clear from the list of those who presented articles to the King and Council that the usual contingent was present.

(1) Glasgow Pres. Maitland Misc. p. 59 April 10th 1593

(2) ibid. p. 61 May 15th 1593

(3) St. Andrews Pres. MS. 12th April

St. Andrews Records present an instance of what must have been almost a record attendance for one Presbytery at an Assembly. Town and Presbytery were grouped together for the purpose. For the Town and Landward parish 9 delegates were sent (certainly they were suiting for a minister) these were composed of 7 for the Town and two gentlemen for the Landward Parish (1) Crail whether as Town or as a Landward district sent 2 lairds. (2) Kilrenny which was a Royal Burgh and entitled to send a separate representative included its representatives in the Presbytery delegation perhaps because its claim to "freedom" was of such recent standing. But Crail was no recent creation. Why did it enroll its representatives with the Presbytery. Other constituencies mentioned as "towns" but of the unfree type included their various overlords as delegates to the Assembly, Kilconquhar sent 2, Largo sent three, and Leuchars sent 3. That is a total of (3) (4) (5) 12 from other "Towns" and 9 from St. Andrews. The ministers sent were 9 in number. On what system were these delegates chosen? 21 laymen and 9 ministers formed an enormous representation for

one Presbytery alone. The Presbytery has collected all the more

- (1) The 2 Russells Cock Balfour Warson Dalgleish Zuill (exhorter) Wood of Stravithie, Aitoun of Kinaldy. (Pres. Recs. April 19 1593) The Kirk Session Recs 18th April show the election of these in the session but 4 townsmen and 5 Landward lairds with no injunction that all must attend. K.S. St. A. II. p. 748
- (2) Wurmiston (Provost) and Cambo; Kilrenny sent W. Barclay and Richard Strang apparently two burgesses. (see Rait. p. 258)
- (3) Rires and one illegible name
- (4) Largo and Wemys and Lundie
- (5) Colluthie Dura and Dairsie

important local lairds. The unit must be not "town" but parish. But why the 3 Burghs should return the names of their delegates through the Presbytery while places like Anstruther and Pittenweem should not be mentioned is incomprehensible. Did the Presbytery make an arbitrary choice of certain parishes or did such lairds as desired to attend obtain commission automatically?

Cambo and Balcolmie were the official shire commissioners. The latter was always more or less under Kirk displeasure for his immorality but Cambo was a prominent member of Assembly. The inference seems to be that the barons disappointed in the postponement of the Parliament which was to have met in April transferred their power to the Kirk. ~~Three barons were on the~~ Privy Conference and other three were on the commission to (1) present the immediate articles to the King. The commission (2) representative of the Presbyteries which was to deal with the July Parliament was of purpose without lay element, for the lairds would be meeting in their separate Estate and no doubt gave some pledges to the Kirk of their good will for the execution of her demands.

It seems clear that by this time the Presbyteries were in touch with the Parliamentary organization of the Knights of the Shire. The Kirk had many excuses for bringing its influence to bear upon the Parliamentary delegates. The chief of these was

(1) Cambo Abbotshall Pwrie-Ogilvy

(2) Abbotshall Merchiston Wedderburn (Shire Commissioner for Berwick)
(B.U.K.p.798)

the reconciliation of feuds among the "principalls of the parishes" which they regarded as fatal for the united action which they urged against the Papists. During May 1593 Haddington was struggling with the quarrels of the Seatons of Tranent and the Hamiltons of Preston which were of such importance that the advice of the other Presbyteries of the Synod had to be called in. St. Andrews however (where barons and ministers had always been closely allied e.g. 1586 Synod of Fife) tried more definite methods. On June 21 1593 a letter was ordained to be written to the "Lairds of Cambo and Balcomie commissioneris for the barons desiring them to convocate their assessors and "to travell for the uptaking of the leit truble arisen betwix the Laird of Rires and Patrick Learmonth" (2)

At the Parliament of July 1593 19 Barons of the Shire are mentioned as present representing 13 shires but the normal methods of selection were not fully in operation as yet. Yet it is clear from the lists that the Kirk Barons were well represented among the Commissioners of Shires. Nevertheless the disturbances of 1593 proved that as an administrative machine the Presbytery was more effective than the civil organization in bringing about extraordinary mass meetings of the barons all over the country for the purposes of national defence. The dealings of Andrew Melville and the Presbytery of St. Andrews with the Shire Court at Cupar and the negotiations of the Synod with the same body go to prove that the Head Courts, especially the Michaelmas Court at which delegates were elected,

(1) Haddington MS. Recs. 30th May 1593
 (2) St. Andrews Pres. Recs. MS. June 21 1593

had a close connection with the Synods which were normally coincident with them. Significantly the commissioners on this historic occasion were to be elected not in the Synod but in the Shire Convention. And the evidence seems to prove that this became a permanent practice. (C.V. p. 266) In preparation for this momentous Synod the ministers were ordained to nominate commissioners from their parishes to the Synod. This nomination thus ensured that only those of like opinion would be members of the Synod which was prepared to dictate a national policy. Free election was therefore in practice non-existent. The custom as it can be gathered from the MS Records seems to be that the lay element as a permanent component and essential part of the Presbytery was out of the question as indeed the Book of Discipline had expected. In any case the rule was that in the Presbytery the ministers must outnumber the elders and the lairds had little interest in normal Presbytery business. The Kirk therefore compromised by nominating special commissioners or ruling elders for the Synod. But the fact that in September 1593 these were not used (1) ^{was} but direct application made to a civil convention proves that the Shire convention was the more suitable place for the exercise of Kirk propaganda. The Fife propaganda had a remarkable effect in the Presbytery of Glasgow where an extraordinary meeting took place which proves the contention as to the confusion between the Shire Court and the Synod, and the civil and the ecclesiastical, in times of crisis. In Fife direct application was

(1) 20th Sept 1593 March 21 1594 ST. Andrews Pres. Recs. "Every minister was ordained to nominate commissioners of their own Session for the next Synod."

made to the Civil Convention. In Glasgow both Shire Court
 and Synod seem to have met together.⁽¹⁾ "The nobillmen baronis
 gentilmen ministeris and commissioneris of the sherifdomes
 and burrowis wnderwritten viz. Lanark Renfrew and Dumbartane
 and of the presbiteries thair of being convenit according to
 the bande maid be our Soverane Lord and his estatis for the
 maintenance of the trew religion.....hearing of the action
 of Fife appointing a definite date the 17th (see C.V.p.270)
~~they~~ appointed the Lairds of Calderwood Merchestoun Greenock
 and the Goodman of Duthall along with 5 ministers to go to
 that convention "There to concurre with the commissioners of
other shires and provinces." This curious meeting by special
 consent of its members was entered in the Books of the Pres:
 of
 bytery of Glasgow since it was such an extraordinary nature
 combining both civil and ecclesiastical functions. Such
⁽²⁾
 meetings were directly attributable to the propaganda of the
 ministry and by their private influence with the Commissioners
 of Shires & for there is no mention of the sheriff who normally
 should have presided over Head Courts. The King's series
⁽³⁾
 of nominated Conventions could not cope with these represent:
 bodies.
 ative, which combined both the ecclesiastical and Parliament:
 ary organizations.

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- (1) To ensure a good attendance at the Shire Convention
 two ministers were sent to speak to the Shire Commissioners
 on the point i.e. Balcolmie and Cambo and the individual
 gentlemen of the parishes were urged to attend. C.V.p.266
- (2) Mailland Miscellany Vol I.p.63 et seq. Oct. 11th 1593
- (3) See Rait.p.223-224.

In the struggle which was really a constitutional one in addition to its religious aims, the tendency was for the barons, of the central provinces at least, to attend either by mass representation or by delegation the conventions held under the auspices of the Kirk instead of having their activities confined by the smaller nominated conventions used by the King in the manner of an augmented council.

To the Assembly of May 1594 held in Edinburgh Edinburgh Presbytery sent 6 lairds and 6 ministers (1) St. Andrews followed its previous custom and sent an enormous representation composed on the same model and containing the same units. Whether the "borrowis" represented the landward section of the constituency only or not is not clear but the quota of 27 laymen and 9 ministry for one Presbytery alone was out of all proportion to the normal sederunt in attendance upon the Assembly.

(2)

Haddington however mentions no laymen among its delegates appointed 24th April but as the Synod had only recently met it may be that the lairds had appointed their delegates there as by the more formal constitution and under normal circumstances both ministry and elders were expected to be chosen. *Three ministers only were appointed*

(1) Edr. Recs. 30th April 1594 Merchiston Pilrig Colinton (He was shire commissioner in the May Parliament) Dalmahey Braid Cotfield.

(2) St. A. Recs. MS. Gentlemen borrowis and ministrie. Provost of St. Andrews (Murray; change of Government) Stravithie Craighall Ramsay; Carnbie; James Traill Wurmiston; Pitmillieyr. Cambo yr Ardrrie; W Barclay R Strang; Mr Wm Scott Bufrey? Balcomie Balmerino Kilconquhar Rires Kimcraig Sandfurd; Mr Andrew Sandilands Largo, Lundie Kirkcoun Durie Kemback Blebo May. 2nd

(3) Hadd. MS Pres. Recs. 24th April 1594 April 10th was the first meeting after the Synod.

Of the six barons on the Articles Colinton for Edinburgh and Largo for Fife were also members of the General Assembly. In all probability a considerable amount of pre arranged policy might have been attempted. Now that ~~its~~ allies (1) were members of Parliament the Kirk did not confuse the issue by appointing laymen on their General Commissions. The presence of the Lairds in Parliament had an undoubted influence in the abandonment of the system of particular and mixed delegations to wait upon the King and Civil Government. (~~see Chapter~~

The undoubted interaction between the Commissioners of the Shire and the Commissioners of the General Assembly is illustrated from an episode in the far North. Alexander Douglas minister of Elgin had in the Synod been nominated a delegate to the Assembly (24th April) Recs. P. 37) and he received his Session's permission to attend. But on 26th May he was back in Elgin (unless the record ^{implies} infers that a letter from him was received) The Lords of the Articles were not appointed till 30th May although the representative commission of ministers had dealings with the King before that. When the Assembly itself dissolved is not clear. The Articles in reply to the King's demands were dated 27th May but the General Commission had probably taken over duties by that time. In any case on 26th May Alexander Douglas who was almost certainly a member of this General Commission, "requirit the eldaris to adwyis with sic thingis as thai wald have done in the Parliament that he might

(1) Colinto Largo Constable of Dundee (Forfarshire) Wauchton for Haddington Constabulary; Calderwood for Lanarkshire (cf the Convention of the previous October) Garlies for Wigtown

mak the commissioners of Murray forsein tharof"

There is a suggestion that the issue of ⁽¹⁾ the formal issue of precept of Chancery to the Commissioners of Shires which showed that for the first time the system was in full and complete working order, is an indication that the King had realized that nominated conventions could not divert the energies of the new Estate and that unless their class found expression in Parliament in a more representative form the whole strength of the "fighting force of the nation" would be employed in the furtherance of the schemes of an Assembly which although not pretending to represent all sides of the national problems, joined ^{with} a large proportion of these lairds for the furtherance of party policy in relation to most of the affairs of State and Government Departments. The period of the lairds awakening to the consciousness of their powers as an Estate is coincident with the most ambitious claims of the Assembly. Strangely enough sometimes the Kirk Convention must have contained on occasion lairds and laymen who whether "nominated" by mistake on the part of the minister or by the opinion of the meeting of barons which elected them, could not have been of the same political principles as the Kirk. This was particularly true in the case of Balweary who was a delegate of the Fife Synod in 1590 and only a few years afterwards was involved in the most notorious anti Kirk Plots.

(1) Elgin Recs. New Spalding Club. Vol II. p. 37

The same Kirk Session called in some years later the co-operation of the barons to deal with "broken men" and made particular application to the Laird of Duffus the Commissioner of the Shire. *ibid.* II. p. 105 Sept 10th 1602

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 To the Assembly of Montrøse 1595 (June) which was not coincident with a Parliament although a Convention of Burghs met contemporaneously with it, the quota of Lairds was by no means so large. Edinburgh sent 4 ministers and only two lairds (1) and these two lairds were suspiciously like the formal Commissioners of Shires. The Presbytery simply nominated them in absentia for the attendance of the barons at meetings of the Presbytery was now so unusual that had a body of lairds been present for the purpose of sending delegates the fact could hardly have failed to be commented upon. There is thus a suggestion that in the absence of a special convention of the barons who seem from a comparatively early time to have elected their own delegates when such a meeting was possible, (see infra) the Presbytery followed the normal custom of nominating in absentia and chose those who were the legal representatives of the Shire for the year. St. Andrews is curiously silent and Haddington sent only one minister the notorious (2) Walter Hay no mention being made of a lay element. If lairds did go from whom did they get their commission. The tendency must be to infer (as it is everywhere to be inferred from the records) that the rule of 1586 was not strictly followed and the barons when they desired might make the occasion one of urgency in which case they were entitled by the current opinion to attend en masse as the "congregation of the faithful".

(1) Pres. MS. Recs. Edin. 10th June. 1595 Colinton was Shire Representative frequently. On 11th Nov. 1595 the Presbytery dealt stringently with the "slander" committed by persons who had raided his lands.

(2) Haddington MS Recs. 2nd June. 1595 "to reason vote and conclude as if thai wer all present thamselvis" (The Presbytery as Unit?)

For the Assembly of March 1596 however the Commission of Assembly took special care that the attendance of the barons should not fall away for their letter e.g. that sent to the Presbytery of Haddington particularly called for a large representation "Not only ministers but best affected gentlemen". The "best affected" according to King James was only another name for the seditious opposition. When the Commission's letter was received the Presbytery composed entirely as usual of ministers at once appointed their ecclesiastical delegates, but did not proceed to nomination of the lay element. ⁽¹⁾ Instead they ordained "everie minister to wairne the gentlemen within thair parochin to be present heir this day aucht dayes for accomplishing of the uther part of the letter touching commissioneris to be chosin of the gentlemen. On the appointed day however "in respect of the few number that is convenient" the election was postponed to the 10th March. On that date "ane greit number of thame being present wt uniforme consent it wes aggreit that thai ..sould give thair presence to the said assembly upon the xxiii of this instant And that thaim sould meit the said day at thrie efternoone amang thamselves To chuse out some commissioneris in thair names to awayt quhill the said Assembly sould be endit" This is capable of different interpretations. ⁽²⁾ One thing is clear that the Barons elect by themselves as a separate Estate their representatives to Assembly. What is not clear is this. Were the whole barons en masse to go to Edinburgh the first day of the Assembly and then

(1) Carmichael Hay Gibson Davidson. 25th Feb Pres. Hadd Recs

(2) Hadd. Pres. Recs under those dates.

having given a demonstration of public feeling proceed to elect formal delegates to remain throughout the whole session of Assembly according to the Act of 1594 which insisted upon all commissioners remaining until the dissolution of the meeting. Or does it simply mean that they were to meet on the afternoon of the Presbytery day and elect their own commissioners.

Edinburgh deputed its average proportion of Lairds and Ministers numbering 6 and 7 respectively with no comment as to the

(1)

method of election. St. Andrews strangely enough sent only three ministers and has no mention of any extraordinary convention of barons. Indeed when on February 26 a letter arrived from the Moderator of the last Synod asking that in view of the fact that the Assembly would meet on the 23rd March a Provincial Synod should assemble on the 16th, the Presbytery refused, "in respect of divers considerations," to attend any Synod before the General Assembly met. This was a direct violation of the prin:

(2)

ciple which was later evolved as being the custom of the Kirk, (of the "questions" of the following year) that delegates to Assembly should be appointed in the Synod. The lairds of Fife must have been there. How and where did they get their commission unless they had a separate meeting of their own only slightly connected with the Presbytery. In the face of such a concourse of barons the King could not be expected to refrain from his usual demand for money.

(1) Braid Merchiston Colinton Dalmahey Pilrig Brunstoun Edr. Recs

16th March 1596

(2) St. Andrews Pres. Recs. MS. Feb. 26th 1596 All the Records

agree that the Assembly was to meet on the 23rd not on the 24th March as Calderwood states. The St. Andrews ecclesiastical reps. were the two Melvilles and Nicol Dalgleish chosen from a list of 5. March 11th 1596

Barons certainly played an important part in the Assembly extraordinary business and the claims put forward by the Kirk implied that it did consider itself a national leader of all the Estates.

In the **Convention** which met in May 1596 17 smaller Barons were present many of them supporters of Assembly schemes in the past, ⁽¹⁾ but their presence made little appreciable difference in policy. Although Barons certainly were present at the extraordinary culmination of the Convention of the Commissioners of the Kirk November and December, there is no indication in the records as to any method of election of a lay element. Those who attended must have come on some principle of mass representation and the areas concerned were probably only the central provinces for the North and the more distant parts of the country were ignorant of the course of events. The meeting of Barons and Gentlemen upon whom Balcanquhall and Cranstoun's sermons had such a disastrous effect was not representative in any true sense of the word save as an indication of a definite trend of public opinion. Lord Lindsay who was the leader of the movement for the laymen was under process for slaughter before the Presbytery of Haddington. But the Kirk had many methods of getting into

(2)

(1) Ret. of Names. p. 543
(2) Pres. Recs. Hadd. 8th Dec. dealt with the death of John Aytoun slain in conflict upon glaidmiure betwix my lord lyndsay and the toun of Hadingtoun upon quhilk gret cummer and skaith is like to insew. 15th Dec. Lindsay himself appeared as warned and accused of the sclaunder of the slauchtir of Jhone Aytoun anserrit that his purpois that day was only to mak interruption according to the law to the toun of hadingtoun in possessioun of some houssis and lands he had

touch with the lairds both through their parish ministers and through their shire conventions. The Presbytery appreciated the feudal necessities of the situation. If the great lord or laird stayed away from church his tenants thought that they therupon had no obligation to attend. In Glasgow in July 1596 Lord Fleming's absence from Kirk was "the motive and great occasioun mowing his tennentis to do the same" The Kirk therefore looked to the baron in his baron Court ⁽¹⁾ to put their decrees to execution. The visitations of the various parishes show how local adjustments were brought about and also how difficult it was for the Presbytery to get execution without such support. This explains the obvious reluctance of the Kirk to proceed to excommunication lest by open flouting of the ultimate weapon of the Kirk the whole system of discipline might be brought into disrepute. When the ministers godliness failed the feddal hierarchy was called in to compel the

contd. ryt to as his predecessouris had bene in use of befoir And that in respect thai had bröken sundrie trystis ti him of befoir he had given thame lawfull premonitioun that he wald use his advantage be law becaus thai had contemnit commouning And qll he wes in doing of the mater farre fra the toun having no mynd to invade ony of thame The haill inhabitantis of the said burgh came out in armes and violently wald have stoppit his cairtis invadit his men upon ane uther mannis ground qll he wes behind taking ane instrument of interruption in James borthwik his hand and sua in the conflict befoir he could come neir the said Jhone wes shot and if he had not stayit his awin men thair had bene mair skaith done" He promised to make satisfaction as soon as the case was tries before the ordinary judge. Lairds as arbiters were appointed.

(1) Maitland Club Miscellany July 13 1596 Recs of Pres Of Glas
gow.

poor tenants to submit if not to the Kirk persuasions, at least to the baronial authority of their Lords

(1)

Apart from the exercise of local discipline however in which the ministers were not always quite impartial for the ingrained respect for rank was not easily eradicated, there were other means of influencing civil institutions and law courts. The various acts of the Kirk against Burial in Church which resolved itself into a final demand in 1597-98 that Parliament should pass an act commanding all noblemen to build "sepultures" for their families, had always as this provision indicated been most strongly resented by the lairds. It had been a grievance from before 1588 at least. The whole laird class was concerned in the persistent violation of the acts and in at least one instance the question was the cause of direct communication between Presbytery and Shire Convention. On October 28th 1596 the young laird of Dairsie appeared in the Presbytery "commissionar for the Convention of the baronis (at Cupar) craving that they should not proceed to the sentence of excommunicatioun foir ~~kirk~~ burriell in the kirkis quill the next generall assemble at quhilk tym they should have ther

commissioneris to be fulkie resolvit in that point " (2) From

(1) cf. the visitation of Tranent July 14 1596 Lord Seton and a great number of gentlemen were present when a complaint was made that the servants do not go to Church. "My Lord promisit to cause ane proclamatioun the first tyme he haldis ane court in Langniddrie under ane pecuniall penaltie charging thame to resort to the Kirk. And David Setoun younger baillie of Tranent promisit to tak ordour in Tranent that the servauntis nicht resort to the Kirk efternoone and on the oulk day

(2) St. Andrews Pres. Recs. Oct. 28th 1596

the phraseology this would imply that the barons likely to be present at the Assembly would also be commissioners from the shire convention. i.e. that the Assembly representatives were elected in the same meeting or civil shire court which sent delegates to Parliament.

Throughout the summer of 1596 the extraordinary conventions of the barons for Kirk purposes were frequent. The signing or renewing of the Covenant provided many opportunities for organization of the barons. e.g. St. Andrews July 8th 1596. But after the debacle of December the position of the Church with relation to the barons was vitally affected by the various acts of Council and the Royal Letters prohibiting conventions of gentlemen except at the King's summons. Petrie definitely attributes to these acts the weakening of the power of the Assembly occasioned by the defection of the Gentlemen. But the Presbyteries had not normally had these gentlemen in attendance upon their ordinary meetings. Edinburgh had attempted to make them an intrinsic part of the Presbyteries personnel according to the first institution. Their presence had been more usual at the half yearly Synod because these "Provincials" corresponded fairly nearly with the chief Head Courts. but the ruling elders (1) who legally were the only persons who had the right to sit in Synod were the nominees of the minister of the parish and had no free election. Even these would seem to have

(1) e.g. St. A. Pres. Recs. Sept. 19th 1594 The ministers were to advertise the gentlemen within their parishes to be present on Twyisday next to come at the Synod.

preferred their civil court as a place of election rather than the Synod. Only so can the elections of representatives of the barons meeting "be themselves" be explained. Formerly the Presbytery nominated a quota of barons of the rank and type most likely to go to Assembly. When the election was made at the Synod the barons voted ~~their~~ own representation and although it is uncertain from the vast numbers of lairds sent, probably made some concession towards their delegates expenses. There ~~is~~ however no record of such payment of commissioners of the barons and when enormous numbers were sent each Baron probably paid his own. It was the kind of irresponsible mass representation which they themselves had been prevented from putting into practice after the Act of 1587. After the prohibition of extraordinary conventions the Presbytery of Edinburgh agreed that none save actual ministers and those who had given in their names for the "exercise" should be permitted to remain in the Presbytery

(11)

In St. Andrews the same restriction was imposed by Royal warrant. "The provost of St. Andrews intimated that he had received a charge from the King for execution of letters not to permit anyone to sit in the Presbytery as judges in discipline of manners who was not an actual minister". This of course was with the express purpose of excluding the Doctors of the

University and particularly Andrews Melville. (2)

(1) Edr. Pres. Recs. Feb. 1st 1597

(2) St. Andrews Pres. Recs. 15th July 1597 The Synod of April 1590 had dealt with the question of attendance of persons not actual ministers of a congregation. Answers of the Assembly to particular questions on the point had been consulted. Although no trace of the question is found in the Assembly

This also effectively excluded the lay element of barons

The Convention of Estates which ratified the stringent Acts of Council contained a considerable number of nominated barons thus indicating that the whole Estate of the Barons (1) was not united in the support of the Kirk schemes. But the Fife and Lothian contingents ^{were} ~~are~~ noticeably absent. The movement as proved by the subsequent assemblies was rather a local and central demonstration than entirely national.

No lay element was appointed for the "Convention of the Ministry" of March 1596-97 although of course a proportion of lairds were present as members of the contemporaneous Convention of Estates but, of the "barons and gentlemen that shall happen to be present" with whom the Fife ministry hoped to have dealings there is little evidence. Hay represented Haddington (although he did not actually go on account of sickness) Edinburgh sent three ministers, St. Andrews sent three ecclesiastics (one of them Andrew Melville was prevented on

contd. Records the minute extracted as found in the Presbytery Records shows the history of the interesting point. The question had been referred to the Assembly by the Synod on 7th October 1586. And the General Assembly probably through its Committee of Questions on 23rd June 1587 decreed that "Regents of Philosophy could not be members of the Presbytery because they are not ordinarily called". This rule does not seem to have been always accepted as the Questions of 1597 prove. The Presbytery itself on 23 April 1590 concluded that "sa many of the regentis in philosophie as wald declair that thair were myndit to enter in the ministrie and wald accept upon thaim the office of Elderschip and give their aithe for using of the same dewtie suld be memberis of the presbitrie and have vot therin". They were 5 in number including the master of the grammar school

(1) Jan. Convention of Estates. Ret. of Names. p. 543 - 14 barons.

account of a Rectorial election) and three assessors.

Only 8 barons are mentioned as being present at the Convention of Estates.

The same thing occurred at the Assembly of May 1597 Haddington sent three ministers Edinburgh and St. Andrews did not record their delegations, but the corresponding Convention of Estates contained only 7 lairds as members. That St. Andrews probably tried in its wonted fashion to stir the lairds to ⁽¹⁾ action is hinted at in the representations which the Presbytery made to the Convention of the Shire on April 7th 1597. The first cause of the communication was the reconciliation of a baronial feud but it is very probable that the zealous delegates (the two Melvilles and Robert Durie) took advantage of the situation to show to the convention as they had done in Nov. 1593 the dangerous estate of the country and Kirk. But ⁽²⁾ the barons did not move. It was just at this time that a demonstration in favour of the "true" Assembly fenced by Pont on April 27th would have overthrown the King's schemes for the subjection of the Kirk. But apathy had settled upon the lairds. The King had begun the system of "lobbying" which was to prove so effective. Even during the riot of December some of the lairds commissioned to present the articles had been "little content of their commission". Barganie had made his separate peace and was now a prominent member of the Civil Conventions. Gifts of tacks and kirk lands and pensions were making the unruliness

(1) Carmichael Colluthie Dudhope Edzell Pitarrow Spott. Traquhair
 (2) They were "to be present at the convention of the baronies upon twyisday to recommend the matter (of Rires and Dura) to them. cf. Nov. 29th 1593

of the barons less aggressive. They were doubtful too as to the Kirk's policy with regard to the teinds should the constant Platt suggested by the Octavians come into practice. Why did the Kirk not protest that it was incomplete without its layelement. In both cases it was meeting simultaneously with a Convention of Estates, but the lairds did nothing to assist their ancient ally. They were in hope of too many benefits from the King who had schemes for using them as a counterfoil to the Higher Nobility, readily to jeopardize their position as an Estate in Parliament for a question in which as a class they had no vital interest at stake.

There is no indication of the attitude of the lairds to the question of Kirk vote raised in the Parliament of December 1597. Certainly some old acquaintances of the Kirk were present in the persons of the Laird of Braid, the Laird of Corstorphine William Seton the Provost of Haddington etc and it is only the Lords and Prelates whom Calderwood (1) mentions as being opposed to the suggestion (C.V. p. 668).

When therefore the Assembly of March 1597-98 was summoned, we should expect some agitation among the Presbyteries to endeavour to make it more representative than it had been. Barons certainly attended from the Northern areas but the (2) records of those Presbyteries which had formerly provided the leaders mention no return of baronial representatives.

(1) Return of Names. p. 544

(2) C.V. p. 682.

Haddington referred the choosing of its representatives to the Synod as did Edinburgh. In the case of Haddington the result was that "ane greit namber" of ministers was appointed (1) and in the case of St. Andrews in a small meeting of the Presbytery, after preparation by the Synod, a kind of mass representation of the ministry was agreed upon -- "Commissioners for the General Assemblies--the haill Presbytery" with the (2) addition of Andrew Melville who although excluded by the University Visitation was to go to Assembly provided the Kirk itself approved his presence. In point of fact he had to retire.

The General Assembly thus largely under Royal influence defined its personnel in a way which deprived the barons of that enormous influence which they had hitherto wielded in the Counsels of the Kirk. The representation was definitely considered as coming from the Synods. With the quota of lairds reduced to one for each Presbytery the proportion was approaching that of the civil quota for the Shires. e.g. Fife would send 4 lairds to Assembly and to the Parliament only 2. The whole value of the mass representational principle as a covert hint of force was thus neutralized. At times the Kirk may have been jealous of the proportion of lay votes in her presbyteries e.g. 1582 but the time was not apposite for the application of the principle to the Assembly. What would have been the result had the barons attended in the vast numbers in which we have seen they had done from the constituencies of Haddington Edinburgh

(1) Hadd. Pres. Recs. 1st March 1598

(2) St. Andrews Pres. Recs. Feb. 26th 1598 and March 2nd.

While some towns and villages did contribute as corporations (e.g. Gullane gave £10-5) on 5th July the brethren had to report concerning any support to be gotten fra thair gentill: men and commownis for the help of Haddington Thair wad be nothing "

The exacting visitations which the Presbyteries carried out during this summer would indicate that since appeal had failed sterner measures were resorted to. The "concurrence" of the barons seemed to have fallen away both in Haddington and St. Andrews. There was frequent occasion to rebuke the heritors for negligence. The Lord Newbottle was approached by a delegation of 2 ministers and 2 of the Session to induce him to take order as civil magistrate with delinquents. Frequently it was complained that there was no concurrence of the ⁽¹⁾ parishioners. In Haddington gentlemen their servants and families were seldom now at sermons and their "nurses cooks stewards handmaids neatherds shepherds" followed their example. In North Berwick many of the nobles ⁽²⁾ who were the natural civil magistrates were occupied about the Court e.g. the Laird of Bass and the Laird of Carmichael and could not be present to attend visitation. Many of those who could remained deliberately away but in the town itself there was such good discipline kept that the Presbytery visitors were obviously surprised and demanded how the minister accounted for it in face of the neglect of the gentlemen. ⁽³⁾

(1) 13th July 1598 Haddington Recs (2) 5th July. 1598

(3) 20th July 1598 ibid.

(3) They explained it by the diligence of the birgh officials.

The troubles over the designations of glebes, of which the Assembly of March 1597-98 had ordained each minister to put himself in possession and "await upon the law", still further widened the breach between lairds and ministry. The St. Andrews *Records* show numerous feuds arising on this score. Haddington had a battle royal with the Laird of Clerkington who wanted the minister to give him a tack of the 4 acres designed for a glebe without first putting the minister into "peaceable possession" and the case was complicated^{at} because of his relationship with the Lord Privy Seal and the Provost of Haddington (who was his brother). On all sides there was negligence among the barons if not active hostility. The change is remarkable. Many of the "chief men of the parish" were malicious and obstinate and on one occasion a kind of "band" had to be entered into with them on the old feudal principle of mutual advantage. Sometimes the position was so bad that there was no Kirk Session at all and the minister was instructed to nominate those whom he pleased, and those whom he chose would seem to have been the smaller lairds whose diffidence in accepting the office was due to the fact that some of the parishioners were not under their "dominion". Before such a session could be effective the Presbytery had to write to the non resident greater landowners who were congregating round the Court to "appoint the chiefest of their tenants" to concur with them that the whole parish might come under the Sessions jurisdiction. The dependence of the Kirk upon civil local

(1) 21st. Feb. 1599 Hadd Recs. (2) 28th March 1598

(3) Bolton August. 1598 Hadd. Recs.

courts for the execution of their decrees and their ineffect:
iveness without the personal support of the local magnates ^{was apparent.}
The lairds resented having to stand up in Church and confess
their faults in prophaning the Sabbath laws which as civil
magistrates they were supposed to execute, and regarded the
kirk's interference in many cases as a breach of feudal priv:
ilege. The Presbyter however was willing to make concessions
as far as possible in consideration of their rank. It was not
(1)
an altogether unjust accusation that the discipline of Scotland
was effective only against the poor and mean who had no share
in Church Government nor in the exercise of discipline.

The feuds incident upon the attempts to set up the
Constant Platt and to allocate local stipends resulted in very
bitter feeling in many cases between Kirk and Nobility. The
bargains driven were hard ones and were sometimes obtained only
on promise of "ease of tithes". The difficulties of "tacks of
(2)
of other men's tithes" which all the writers on the financial
question mention and deplore were peculiarly complicated in
Haddington where as far back as 1588 the great poverty of
(3)
the ministry had been complained of "quho haiffing their
residence in the derrest part of the realme hes smallest stipend
of money and na victuall And that thotoch the pensionis obtenit
out of the Kirkis quherat thai serve being neirest to enstate ?
best victuall and reddiest payment and this in spite of the
Revocation". In spite of all the commissions and Platts, matters
(1) All of that rank" were permitted to make satisfaction by simple
confession of Sabbath breaking in their own places. 11th April 1599
(2) The Earl of Morton and Haddington's provision
12th Sep. 1599
(3) 15th Jan 1588-89

not been improved and the Presbytery could take up a
 (1)
 determined attitude in regard to the hated tacks.

The old quarrels over Kirk burial revived, in view
 of the late enactments, to increase the disputes between Kirk
 and Baron, and the King was gradually drawing the barons more
 and more into his alliance. In the Convention of Estates of
 December 1599 19 barons were present. The Kirk suggestions
 (2)
 to allow the laird elders to exercise vote in Parliament had
 been formulated too late to have any influence upon the
 development of the constitution of Parliament.

Yet when the Assembly of March 1600 was announced
 the Kirk seems to have made a determined attempt to bring the
 laity once more into the fold, but it is clear that there is
 no longer that alliance between laird and minister on the old

footing. The Presbytery of St. Andrews on February 28th 1600

(1) The letters between the Commendator of Holyrood and the Pres
 bytery of Haddington are interesting.... Grace and peace
 hearing of the tak of the teyndis of Saltpreston in hande we
 could do na less than earnestlie requeist your l. to have con:
 sideratioun of the provision of the Kirk therof being are of
 our boundis be allowing thereunto in the tak some proportionall
 quantitie of victuall be zeir according to god's word and
 gude lawis of the realme that god quheis proper gudis for his
 Kirktheis teyndis are may blis the rest the better boith to
 zow the setter and to thame that takis at zour hand. Otherwyss
 qlk god forbid and it be his plesour gif ze gif deaf to our
 admonitionn authorized be god (as hitherto the kirk hes had
 too grit prufe of) It may please your L. to understand that we
 think it hie tyme to lat zour L understand at the least the
 wecht of that jurisdiction qlk Jesus Christ the Lord of his
 Kirk hes put into our handis Notwithstanding any pretence of
 law to the contrarie and to use all the honest and lawful
 meanis we can besyde as weill unto his Majestie as utheris
 our freyndis in Chryst anis to redress, gif god will that
 gros and foull enormitie of not provyding dew sustentatioun to
 the laboraris in the speciall work of God and navelie under
 (contd overleaf)

ordained "ane lre to be direct to the Laird of **Balcomblie**
 desyring him to adwerteis the Baronis within this Presbyterie
 to be present this day aucht dayis that with commoun consent
 a commissioner of Baronis may be chosin to the Generall Assemblie
 Balcomie was presumably the commissioner of the shire and (1)
 the letter is a good indication of how under the changed
 circumstances the relations with the baronial conventions
 were on a purely formal footing. On the next Presbytery day

(contd)

under zour prelatie of that portion that properlie belangis
 unto thame be the lawis of god and man that ar abill to stand
 in godis sicht And zour L/ answr. wt possibill diligence we
 crave from Hadintoun the Seat of our presbyterie 29 Aug. 1599

Holyroodhouse wrote in reply. His letter is registered in the
 Presbytery Book 19th September.

I ressavit ane letter of zouris from anr brother the minister
 of NorthBerwik quherin ze suit me for ane provision to the
 Kirk at Saltprestoun as gif the tak therof were in my handis
 Trewlie zour informer hes na intelligence in that mater for
 it is ane verie calumnies. The Laird of Prestoun hes zit foir
 or fyve zeiris to rin And gif his tak had bein in my handis
 I could haif willinglie bestoeit provisioun on the Kirk wt
 out any compulsatioun of zour jurisdiction as ze call it
 and this for ane answr. Elsinfurde the 18 of Sepr. 1599
 Subscribitur Ne zour brother obedient evir to the Kirk

Halyruidhouss.

(2) See Ret. Of Names. p. 545 Several of them were the old leaders
 of the Kirk.

(1) This laird of Balcomie was a brother of that notorious laird of
 who

Balcomie was a leader in the expedition to Lewes which engaged
 the interest of the St. Andrews for a considerable time. In
 September 28th 1598 the gentlemen venturers to Lewes had
 appealed to the Presbytery for ministers to accompany them
 The "crownor and the laird of Balcomie asked for the services
 of Mr. John Dick who refused The Presbytery accordingly
 nominated three ministers to arrange matters on the question
 He had died on the return journey from wounds. Andrew Melville
 had foretold his end as a punishment for his sins. His death
 was in the end of 1599 or beginning of 1600 (written) James Melville
 states he was killed 1598. In 1601 April 2nd The Laird of Balcomie
 (mentioned in our abstract) along with Wilminton and Captain Murray
 asked for ministers for another expedition. Robert Duncie went, since
 the Presbytery could not spare James Melville. In Dec 1601 all the settlers
 were slain. Duncie was back again in Presbytery 1602. He may never have gone.

the 6th March it is recorded "The same day the Baronis con:
:venit have chosin be them selffis the zoung laird of Dairsie
ther Commissioner to the generall assembleie quherwith the
Presbyterie aggreit for that tyme And ordainis this to be
remembred that the Baronis be adwertist in all tymes heir:
after to be present at Synodall Assemblies to the intent the
ancient forme of electioun of commissioneris may be kept"

This young laird of Dairsie was the representative for St. Andrews
in the Parliament of November 1600 but the Burgh itself was
represented in Assembly by Russell, although (Learmonth of Dairsie
elder of Dairsie protested that they of the landward were denied
full privilege in the Kirk) The curious interaction between
Presbytery and Convention of the Shire and the Shire Commissioners
is interesting as showing how the same group and even family
of lairds were representing the shire both in the Kirk and in
Parliament. The insistence that the normal method of election
was at the Synod strengthens our suggestion that the Shire
Courts and the Barons Electors for the Assembly were practically
identical and there was very little difference in the electorate
of either.

Edinburgh sent apparently no lairds unless the "ancient
(1)
form was followed in her case and the election was done in the
Synod of which no trace is to be found. The idea of the Superin
tendent's Court persisted thus in the election of the barons
and although the Synod was not synonymous with the shire it
(1) The ministers sent were Blyth Bruce Cranstoun. 26th Feb 1600
Edr. Pres. Recs. Haddington Records are blank 31 Oct 1599-
11 June 1600

was close enough in the majority of the central provinces to be convenient. Even so late as the end of the XVI th Century ~~almost to the end~~ the Head Courts were sometimes held in the Church of the County Town and it is just possible that after having chosen their Shire Representatives for the Parliament the Barons simply proceeded to choose their delegates for the General Assembly intimating their decision to the Ecclesiastical Body. Records agree that the Barons elected ~~their~~ representatives "be themselfis". The early days of Mass representation when 6,7,8, or even ten might go from one Presbytery alone were over and with them had passed the custom of nomination of the lay element by the ministry. The growth of the representative principle in the Parliamentary system had induced separate election by the barons themselves. This very General Assembly mentioned the deliberate absence of barons and gentlemen from the Kirk and Communion under the pretence of "deidly feud". The efforts of the Kirk in reconciling these had not been meeting with their accustomed success. The Kirk had lost its prestige. The King no longer feared the influence of the Kirk among his barons. In arranging the Synod of Lothian to hold its meeting on the third Tuesday of September he showed no fear of the risk involved in the proximity to the Michaelmas Head Court which would be convening about the same time. (1)

(1) See Pres Recs Edinburgh. Aug. 19th 1600. Nevertheless the concurrence of the laymen including the lairds of Merchiston Braid Broughton was obtained for executing the act of Convention of March (Perth) on behalf of the Poor. See Edr. Recs 29th April 1600

The question of lay element was gradually becoming a ~~general~~ one. Elders were no longer a permanent part of the personnel of the Presbyteries. Edinburgh having probably heard of the efforts of St. Andrews in this direction in the preceding year in anticipation of the General Assembly brought the problem to the consideration of the Synod of Lothian which was to meet on 7th April in Tranent. On 4th March it is recorded "ordainis ane article to be proponit to the nixt provincial assembly of Lothian appointit to meet in Tranent 7 Aprill That ther advyse may be had concerning the raparing of the unpreiching eldars to the Prysbytereis according to the 1st institution".⁽¹⁾ Of the Synod's response there is no record. And of the election of laymen to the Assembly of Burnt island there is no trace Whether they came to the Synod on this occasion to vote for their representation on Assembly is not known but certainly Edinburgh and Haddington when appointing their delegates mention only ministers, Edinburgh sending the statutory three⁽²⁾ and Haddington 2 one of whom apparently did not go so that the⁽³⁾ whole Presbytery was represented by James Gibson alone. Whether the "ancient form" was followed out in Fife there is similarly no indication, although the actual sederunt of the Assembly records the presence of the King with his Commissioners of Nobility and Burrowis. These were probably like the subsequent "Commissioners" nominated members. The lay element on an elective principle according to Petrie was negligible.

(1) Pres. Recs. Ed'n. 4th March 1601

(2) Hewat Arthur Muirhead. 29th April 1601 Edr. Recs

(3) Carmichael and Gibson. but on the actual date of the Assembly Carmichael was present in Presbytery. There was now none of that crowding to Assembly of the "hail Presbytery"

Yet although they no longer made the Assembly their Estate meeting the feudal power of the barons was still called upon by the Presbytery to come to voluntary agreements on questions such as the sustentation of beggars and the sanctification of the Sabbath. Thus for these purposes on 8th July 1601 a great number of gentlemen of the Presbytery met in Haddington. The landowners either came themselves or sent representatives and as a result of the colloquy a common arrangement was come to according to the Act of Parliament (1597), and the lairds bound themselves to provide that none of their mills "go" on the Sabbath. St. Andrews had adopted similar measures in the preceding summer (1) Yet this was a normal part of their civil business in execution of universal acts. The concurrence of the lairds in ordinary Kirk business was so lax that during the visitations of 1601 a state of affairs was revealed which indicated the complete indifference of the barons to the Kirk which they had used for political and representational ends in the earlier period of her history. The Lairds around Haddington were so slack in attendance upon kirk that the Town Magistrates and burgess members of the Kirk Session were instructed to go with the minister to threaten them with excommunication. In Aberlady the Kirk Session only met very irregularly because the lairds would not come, and an ordinance was made that every gentlemen within the parish should depute some one to take his place in absence upon the ordinary day of session (2)

(1) Haddington Pres. Recs. Seaton and Yester sent delegates but Clerkington Hermiston Samualston Fawside Elphinstone etc were personally present. Hume of Northberwick and Lord Lindsay sent kinsmen.

(2) See Recs July and August. 1601

The position was the same in Fife to a large extent. In the spring of 1602 the Commission of the General Assembly through its circular letter urged the ministry to rouse the noblemen and gentlemen and other chief men within the bounds of the different presbyteries to an appreciation of the dangers from the Spaniards and Papists both to the liberty of the country and to their own Estate. In crisis the Kirk would make an appeal,⁽¹⁾ since the interests of the Kirk were not of such paramount importance with the barons, to patriotism and a class interest, with an attempt to influence the unruly to obedience to the Government. Yet in the sederunt of 1602 the lairds are conspicuously absent; since the proclamations of 1596⁽²⁾ they have not made a real demonstration in favour of the Kirk. Not only so but they are being used in the King's policy of repression in the Presbyteries. While it was generally recognized in the parishes that the "congregation" or the "People" were the laird class which paid the minister by private bargain or by grants voluntary or compelled; the poorer parishioner had little or no say in Kirk business except in so far as he might be the deputy of some greater man's authority. Since the lairds now rarely if ever attended the ordinary Presbytery meetings, though they still technically remained "elders" the King took advantage of the position "to appoint sum of ther awin godlie and unsuspect elders" to be his commissioners to watch over the proceedings of the Presbytery.

(1) C.VI.p.158; Edr.Pres.Recs.27th Jan.1602; St.Andrews Recs 4th Feb.1602

(2) November 1602 Burghs were present.

The Royal instructions which Sir Patrick Murray produced in the Presbytery ^{of St Andrews} showed that the purpose was to provide that none on the Presbytery or exercise should transgress the acts of Assembly in the matter of "particular application" and to assist the authority of the Presbytery. The godly elders were James Learmonth of Dairsie John Learmonth of Balcomie, Balfour of Balledmont and Walter Balfour his brother. The Presbytery protested that "the enteres of the foirsaidis gentlemen suld nae wayis be prejudiciall to the libertie of the Kirk in respect ther enteres salbe onlie be ther presence to assist and bear witnes of ther proceidingis without waiting or melling with any maters of doctrine or discipline" But if these men were accredited elders and ruling elders from their own parishes at the same time could the Presbytery have denied them vote -not in doctrine which was the concern of the ministry only but in the administration of discipline. They had desired at one time the concurrence of the gentlemen to assist their authority but now that that assistance had been brought in by Royal Authority and act of Council, lay attendance was suspect. The advice of the Synod seems to have been requisitined on the point but no record of their opinion remains. That they did attend and send information to the King is quite well evidenced (e.g. John Carmichael ^{and} May 26 1603) St. Andrews was certainly ⁽¹⁾ now the hotbed of disaffection but the same principle was applied to others which showed signs of being recalcitrant.

(1) Pres. Recs. St Andrews. July 15 1602

(2) ibid. May 26 1603

common and this in spite of the activity of the November 1602 assembly on the score. The lairds were the greatest offenders Appeal to them, and a return to their old allegiance with the Kirk would do more than national measures to stop the abuse. Accordingly we find the Haddington Presbytery active to have "gentlemen present at the next" Assembly" (Synod?). On 23rd March 1603 "ane motioun proponit be sum brether concerning the presens of weill affectit and zelous gentilmen at the next Assembly". Mr. James Carmichael was appointed to speak to "sic as ar within his parochin (Haddington) to that end and report. This effort was made before the news of the King's accession was known. Whether the appeal had some effect may be implied from the fact that the visitations of parishes were now much more carefully attended by the lairds perhaps in view of the fact that now instead of deputing a group of ministers the whole Presbytery conducted the visitation. At Bothans Yester and three lairds attended by a great number of commons gave in formidable accusations against the ministers Walter Hay. A reconstruction of the Session took place—not elected by the congregation but nominated by the Presbytery. The personnel was simple composed of the greater lairds and their deputies although the Session itself thus appointed had power to co-opt others at will. Tranent reported a better concurrence among the lairds. The departure of the King and the subsequent loss of his immediate personal influence may help to explain what is probably an entirely accidental revival.

(1) Pres. Hadd Recs.

(2) ibid. 18th May 1603

In the agitations which the Synod of Fife used against the Union of the Parliament in 1604 open and obvious appeal was made to the gentlemen. When the Presbytery of St. Andrews received the letter of the Commissioners of Assembly asking them to call a Synod before the Parliament should meet in April (as a result of which delegates were appointed from Synods to advise the Commission on the question of the Union) special care was given to choose a place of meeting "most convenient on account of godlie and lerned brethren and quher gretest concurrance of gentlemen weill affected to the gude causse ussis to be" i e. St. Andrews. Their anxiety to influence the vote of the smaller barons in Parliament is obvious.

The barons who were upon the Articles in the Parliament of April 1604 were men whose names had been familiar in the Assembly in its powerful days. Balcomie Carnell Drum Dudhope Laureston Whittingham Traquhair Wedderburn, and Calderwood (2) (3) records that in the continuation of the Parliament in July barons and burgesses united in attempting to have a protecting clause inserted in the "Commission for Union". That this was due to the local influence of the Synods and Presbyteries and not to the Central Commission of the Kirk seems undoubted.

But a crisis involving national and religious aims did not arise and in the subsequent agitations for General Assemblies the lairds took no part. They were concerned in the liberty of the national church but had no zeal in the matter of technical difference of Kirk Government which in the localities remained

(1) St. A. Pres. Recs Feb. 2 1604 (2) Ret. of Names. p. 546

(3) C. VI. p. 263

very much as it always had been whether under Bishops or not.

Thus although they had withdrawn their political support from the Chief Church Assembly and incidentally therefore from those Courts which returned members of Assembly, the lairds as a class were willing, after the natural reaction had worked itself out after the disasters of 1596, to co-operate with the Kirk in its business which involved no party or political issue. The Collection for Geneva authorized by the King and act of Privy Council was carried out by the assistance of the local gentlemen who co-operated with the minister in inducing their tenants to subscribe. The lairds as an Estate had now found for themselves a definite place in the State. The King was prepared to use them in government at the expense of the older Higher Nobility. His new creations raised men of the smaller baronial class to the highest offices. The Kirk's ideas as to the constitutional position of the ancient nobility had had to undergo a change. William Stewart whom they had called "but a mean man" had been of the same baronial class as the Humes and Laurestons who were now directing affairs. Any chance however of influencing the vote of the July Parliament of 1606 was nullified by the nomination of the Articles by the King himself and this explains why when the delegates of the collective Presbyteries approached the meetings of the Separate Estates and received favourable answers their protests were unavailing with the Articles. The nominated lairds were of the same group which was present in the

Linlithgow meeting of December

(1) P.C.R.VI.p.601 Hadd.Recs.13th June 1604

(2) of Andrews Melvilles scene in open Parliament.
Rait.p.369. Ret.of Names.p.547

The shire representative was thus appearing on the sederunt of the Assembly not as an elective member from the meeting of the barons at the Synod or other church Convention but as a member of the Civil Government and an instrument in the policy of repression of those claims which in the early days the barons themselves had helped to foster. The Estate of the Barons rose with the Estate of the Bishops in Parliament and both at the expense of the ancient nobility for whom the kirk had always had a feudal veneration. At the Parliament of August 1607 Calderwood notes that the greater part of the ancient nobility were absent "the most part who were present were new nobilitated and were thus indifferent to the claims of the new Bishops to precede them in procession.

(1)

An assured position for the barons in Parliament had pretty effectively withdrawn them from the Assembly, and the position was made worse by the fact that the Kirk could not afford to exclude them although nominees of the King because they were dependent upon them in the localities for such execution of civil penalties for Kirk offences as could be obtained. "We must preach and pray but they must fight" (1608). It was perhaps only natural that two systems so similar should coincide. The barons for some time had convened apart to elect their delegates to Assembly and the shire convention was the most convenient meeting place for the purpose. The same persons might very readily be chosen for both although the numbers for the Assembly were larger than those for the Parliament. e.g. Fife

(1) C.VI. p. 669; *Return of names*. p. 5617.

(2) The List of Lands present in 1608 e.g. Balmuir, Kinnaird, Kilsyth, Carmichael, Polwarth, North Berwick, Edinburgh, Newington; the Constables of Dundee, corresponds to those whom the King might nominate for the Articles.

would send 4 to the Assembly and 2 to the Parliament. To save expense (which had not been considered when the lairds of Lothian and Fife led the "Congregation") the tendency would be for the same people to be sent although in point of fact Assembly and Parliament were now usually arranged to avoid the old time co-incidence. Since 1597-98 the term Commissioners of Shires as applied to members of Assembly had disappeared but the lay element had never since then been present in numbers large enough to constitute an "Estate" in Assembly

In the Assembly of 1610 the 13 Barons present who were almost certainly the King's nominees were in many cases those who were commissioners for the Shires in the Conventions of the Estates and Parliament of the preceding year. The personnel of Parliament now arranged and controlled was being used to keep a watch upon the pretensions of the Kirk. The shire commissioner elected to the Parliament, was the nominee of the Civil Power both in the districts and the Assembly itself to see that the prestige of Parliament as the Supreme Court of the realm was not impaired. Episcopacy was not such a grave menace to the possession of the tacks teinds and kirk lands

as the extreme claims of the zealots were. Perhaps it was now

(1) Drumlanrig (C. of E. Jan. 1609) Glenurchy; Wauchton (ibid.)
Bombie; Northberwick (ibid; and Plt. June 1609) Calderwood (C. of E.
1609) Balnamone (C. of E. 1609) Minto Balmain (C. of E. 1609)
Grantully Duntreith; Cockburn (of Clerkington?) Elphinstone
of Blythswood.

simply part of the duties of the Commissioner of the Shire to attend all conventions including those of the Kirk when called upon. Certainly the Presbytery records give no indication of further efforts to make the Assembly representative of the Lairds as an Estate in the Assembly.

The 1612 Parliament which set the seal upon Episcopacy was curiously the first for which the full list of return of shire members is given. There were 30 barons present as representing 16 shires and their names show no dissimilarity between those which were once registered as members of Assembly. The lairds had definitely transferred their support to the civil authority, a result which was perhaps inevitable and which had been feared by the Kirk almost since the passing of the Act of 1587. The King was using them as his immediate instruments of Government and the barons had no vital class interest at stake to make them risk all for a Church whose financial schemes would necessarily imply an attack upon the revenues of the smaller barons who had seized what they could for their family possessions at the Reformation. This explains why at the formal establishments of 1618 no great national demonstration took place such as happened in 1638 when the lairds and the whole nobility felt their financial position definitely at stake. It was no longer a case of one party of lairds being in Parliament as King's nominees, and the elective members going to Assembly. The leaders of the Kirk Lairds in the past are now to be found representing the Shire in Parliament and Convention while the Assembly holds but a group of nominees of the King.

The Lairds had persistently supported the Kirk only when its policy was a national one or one which concerned the class interest of their estate. That they were probably concerned as individuals in the ritual points of the Five Articles may be true but the ^equestion was not of ^{such} ~~such~~ national significance for them to induce them to risk rebellion or the loss of their privilegess as an estate. Royal influence in the shire elections also in many cases prevented the true expression of their opinions in Parliament. Only when the question of Finance was connected ~~with~~ the Kirk questions do we find any real Parliamentary Opposition to Crown Policy and the agitators of the "opposition ministry" made what they could out of the situation. Nevertheless the corrupt conduct of the Parliament of 1621 procured the passing of both taxation and Five Articles and although there was evidence that in some isolated cases the lairds were held responsible for the local unrest against both, as an Estate they were divided and no national rising of the "gentlemen professors" took place for almost 20 years. (1)

James therefore had by devious methods procured the practical exclusion of the lay element on a representative basis from the Assembly, and by subtle influence in shire elections the control of the old independent laird vote.

(1) The vote showed 20 ministers for the Five Articles and 19 against. (Rait. p 408)

Note

The view therefore of the next century which probably was a fairly general one, was not strictly accurate. The minister was as much dependent upon the "quality" as they were upon him. Cameron of Lochiel or rather the author who wrote his Memoirs said of the period of rebellion " Every parish had a tyrant who made the greatest Lord in his district stoop to his authority. The Kirk was the place where he kept his court, the pulpit his throne or tribunal from whence he issued out his terrible decrees; and 12 or 14 souse ignorant enthusiasts under the title of elders composed his council. If any of what quality soever had the assurance to disobey his orders the dreadfull sentence of excommunication was immediately thundered out against him his goods and chattells confiscated and seized and he himself being looked upon as actually in the possession of the divill and irretrievably doomed to eternal perdition all that convened with him were in no better esteem.

Lochiel was so ~~impressed~~ by the avarice and cruelty of the ministers that he met that he refused to allow one within his bounds lest he might stir up his people to disobedience against their chief.

The Estate of the Burghs in Assembly

In any consideration of the detailed personnel of the General Assembly in relation to the study of the representation of the separate Estates, one is met with the initial difficulty, that only in half a dozen instances is a sederunt given at all. The lists of the Assemblies of December 1560, June 1562, of the Convention of Leith January 1571-72, August 1590, November 1602, June 1610 which was a packed meeting. Further lists are provided from contemporary histories in one or two instances. Bannatyne provides a list of those present when he made his protestation that the Assembly should uphold his master Knox's dicta in March 1570-71. Calderwood provides an additional and collective list of the membership during the years 1578-81⁽¹⁾ during the struggle for the acceptance of the Second Book of Discipline. Further notes are available from the Book of the Universal Kirk and from Calderwood of the lay element⁽²⁾ during the corrupt times 1606 to 1618, but in the case of the Barons of the shires these lists are of little value in that the lay element as regards their estate was entirely at the King's nomination. The position of the Burghs as has been remarked was doubtful. There is not much ground for asserting that their nominees were summoned to attend by the King. The sum of the complaints against the burgess

(1) Bannatyne's Memorials p.95
 (2) Calderwood

representation was that the burghs or rather certain of them sent more than their quota.

Information as to the burghal represent :
 :ation for the majority of Assemblies therefore can only
 be gleaned from casual references to burgesses in the
 Assembly business, such as appointment on committees
 and delegations, and secondly from individual local
 records Kirk Session Registers, Town Council and Burgh
 Court Books, & Treasurers Accounts. The majority of these
 printed records are only in the form of extracts and in
 many cases the earliest manuscript records are lost.
 The result is that there is little chance of compiling
 complete lists from the material that is extant in printed
 form. Such rolls as I have been able to collect bear
 a very strong resemblance to the lists of representatives
 which these Burghs were accustomed to send to Parliament
 and Convention.

"Representatives from Towns and Kirks"
 appear in the very earliest Sederunt and the fact that
 the Burghs were there as permanent units before the Kirks
 of the new religion were properly established practically
 necessitated that they should send a separate representative
 to the Assembly instead of being included in the numbers
 of those whom the Superintendent should bring with him.
 Their position was definitely stated in 1568 when they
 were separately mentioned as a distinct unit in the
 system of election.

The General Assembly and the Convention of Royal
Burghs.

Several parallels are at once apparent between the Convention of Royal Burghs and the General Assembly of the Church. In theory at least the General Council of the Kirk ought to have included the whole of the personnel of the Burgh Convention among its burgess representation. Both meetings at one time or another fixed the representation of the Royal Burghs in each ~~organization~~ at one delegate from each while Edinburgh alone in each assembly had the privilege of sending two.

Both likewise claimed to fix their own dates of meeting, but for extraordinary conventions left the duty of summons with a central body at Edinburgh, the Church left the ministers and then the Presbytery of Edinburgh in charge, the Burghs relied upon "the discretion of Edinburgh, of certain larger burghs or of the Provost of the burgh where the next meeting was to take place".

(1) Both also prepared articles for presentation to the Lords Articles of Parliament, but there the parallel ends for the General Assembly had no representatives on the Articles or in Parliament until the times of the corrupt Bishops, The previous titular prelates having no claim to represent the Assembly's opinions.

(1) Mackie and Pryde. The Estate of the Burgesses and the C.R.B. (St.A.Univ.Public.XVII)

Their terminology also is similar, the annual fully represented meeting was in either case called the "General Assembly" and the president was entitled the "Moderator".
(1)

Their relations to Parliament and to each other are worthy of investigation. The General Assembly of the Church legislated repeatedly to endeavour to bring its sessions to coincide with those of Parliament, and eventually came to an arrangement that whenever a Parliament should "hold" a General Assembly should meet a few days beforehand, to prepare business for presentation to the Civil Power. The General Assembly of the Royal Burghs began the same process in 1564, and legislating in various instances at last fixed a standard period of two days between the time of the Parliament Riding and the Convention of the Burghs. This was in 1586. From about 1590 the annual Convention was definitely fixed but the liason of Parliament and Convention was maintained by a system of Particular Conventions.
(2)

Under these circumstances with the Burghs meeting two or three days before Parliament, and with the General Assembly arranging its sessions with the same interval, it would be almost inconceivable that the Kirk

(1) Mrs Pagan. Convention of Royal Burghs. Sept. 1926 p.37-38

(2) Mackie and Pryde. p.19

institution which contained representatives from the "Burrowis", should not bear some relation in its composition to the Convention of Royal Burghs which would thus fairly frequently be contemporaneous with it.

The Church system of synchronization appears to have evolved itself first, or at any rate it was more effective in its results (see Mackie and Pryde p.15) Is it going too far to suppose that since the General Assembly was usually succesful in obtaining this synchron: ization, and since the burgess membership in Parliament was bound to co-operate in some way, the Convention of Burghs made use of the opp^ortunity to hold a "particular" convention.

Such comparative lists as I have been able to collect show the recurrence of the same names in Parliament, Convention, and Assembly, particularly in the case of Edinburgh where the "Barrons", the "Clarks" the "Prestons" attended all meeting indiscrimⁱⁿately. There was no rigorous (1) personnel of commissioners in the one who were debarred in any way from membership in the other meeting. The qualific: ations for both were practically identical and the electorate the same. ~~W~~ In the early Assemblies we may find a hint of a more democratic tendency in the return of a craftsman to the General Assembly, who would not have been ~~admitted~~ to

(1) SEE the list given p. ?

to membership on the Convention of Burghs. e.g. Edin. 1562 June "James Yong cutlar". One fact however is clear that though tacitly it was always understood that the Royal Burghs only, sent representatives as a separate estate to the Assembly, yet up to the end of our period Leith is found sending representatives, while the Canongate also did so for at least some time. Records in any case for the personnel of the General Assembly are so infrequent that it is impossible to set down definite dogmas on the point.

A comparison therefore of the dates of meeting and of the personnel of the General Assembly Parliament or Convention of Estates, and convention of Royal Burghs will reveal in what relationship these three bodies stood in the question of the Burgess element. It is not till 1570 that we get a really definite case of synchroniz:ation of all three, but since the Representatives in
(1)
Convention gradually came to mean the same thing as the Estates of the Burgesses in Parliament, and the question is fundamentally a Parliamentary and Constitutional one examin^{ion}at^{ion} of Parliamentary sederunts and those of Conventions of Estates will serve both purposes and explain the development

(1) Convention of Estates	July 12th
Convention of Burghs	July 19th
General Assembly	July 5th

The Reforming Parliament met in August 1560 and contained 22 Burghs of whom the chief were Edinburgh Dundee Glasow Jedburgh Aberdeen Linlithgow Montrose Perth and St.Andrews(i.e. their provosts were members of a Convention of Estates in the following month.) The Reforming General Assembly did not meet till December when only Edinburgh St.Andrews,Perth Stirling Linlithgow Dundee Forfar Montrose and Dunbar sent delegates. Leith however also sent two representatives

Parliament Aug. (1)G.A. Dec. (1)

Aberdeen Provost.

Ayr...

Dundee -----G.Lovell, W.Carmichael.

Edinburgh Provost(Kilspindie)-----Edward Hope bailie
James Barron James BarronForfar -----Lairds Halkerton
Glasgow Provost and Grange.

Haddington

Irvine...

Linlithgow Provost(Charles Drummond)----Provost; Wotherspoon,
& A.Mylne

Montrose Provost Erskine of Dun -----Provost and A.Mylne

Selkirk...

Stirling -----W.Darroch W.Norwell

Wigton

St.Andrews Provost(Learmonth)-----D.Spens R.Pont

Perth-----Patrick Benson-----John Row both for
Town and Kirk.

Dunbar----W.Lamb.

W.Bonkle.

Leith-----A.Lamb

P.Boyman

Several of these names are frequently to be met with both in Parliament and Convention Records, Darroch and Norwell for Stirling, Bonkle(C.R.B. 1555) Dun's position became a twofold one, Superintendent of Angus and also Provost of Montrose.

(1) A.P.S.ii.p.525; B.U.K.i.p.3.

(2) i.e. Those who during Pre-Reformation Times had carried out Mary of Guise's burghal policy, were returned to the Assembly. No new standard of godliness, or "religion" was created

Although the General Assembly and the Parliament coincided in December 1561, no data are available. The General Assembly of June 1562 provides a complete list of personnel, Edinburgh sent three (Baron Hope, and James Young cutler) Lanark sent its Provost the Laird of ~~Lye~~, St. Andrews, Robert Pont, Dunbar. the Laird of Spott, Glasgow, James Fleming, Selkirk and Melrose combined in sending Scott of Hayning, Montrose would probably be represented by its Provost who was also the Superintendent of Angus. In addition to these, Leith and Holyroodhouse, never Royal Burghs, sent two representatives each. Musselburgh Tranent and Jedburgh sent only ministerial delegates who probably also represented the town as well as the Kirk.

(1)

In 1563 although the Parliament met in Edinburgh on June 4th and the Assembly in Perth on June 25th few data are available for consideration of a joint personnel.

Of the three burgesses names who do occur Macalzean the

(2)

Edinburgh representative was certainly present in both meetings Erskine of Dun was also sure to be in attendance on the General Assembly as well, and Halyburton of Dundee might quite easily proceed to represent his burgh in the Assembly as he ~~was~~ ~~londo~~ in the following year.

(3)

1567 provides some interesting suggestions of interaction. In July there occurred what must have been

(1) B.U.K.1.p.13

(2) Return of names p.534.A.P.S.11.536

(3) see B.U.K.1 p.47

a joint Convention of Estates and Assembly. Those burghs who signed the Articles were only five in number but accounted for 13 delegates. Edinburgh:- Alex. Clark bailie, Clement Little John Preston, Richard Strang; Ayr:- Paul Reid R Bannatyne Gilbert Macmillan:-Irvine:- Alex. Cunningham, Alex. Comm. of Culross; Glasgow:- David Wemys and J. Boyd; Jedburgh:- W. Howburn and Alexander Forrester. Aberdeen refused to send a lay commissioner but instructed the minister Adam Heriot for the Town as well as for the Kirk.

(1)

(2)
In December of the same year 1567

Assembly and Parliament met simultaneously. The curious convention before the Parliament undoubtedly consisted of burgesses and ministers and lairds who discussed and prepared business in the form of joint articles. The General Assembly however provides no lists of names, save those of the Edinburgh delegation which do not correspond to their Parliamentary quota. In the Parliament the Burghs on the Articles were Aberdeen Ayr, Cupar, Dundee, Edinburgh, Montrose Perth St. Andrews and Stirling. And their names were such as either had appeared in the Assembly lists or were to appear in subsequent Assemblies.

(3)

Parliament and Assembly coincided in July 1568 but the Parliament was prorogued, and again ^{Assembly and} Convention

of Estates in February 1569 were within a few days of each

(1) B.U.K.p. 100

(2) The provosts letter of excuse to the Assembly .B.U.K.P. 103

(3) Ret. of names. p. 535

G.A. Macalzean Clement Little Richard Strang. Alex. Sym. Plt. Sir Symon Preston provost, James Barron, John Preston.

other. In July 1569 a few more data are obtainable. The Convention of Estates began its sessions on July 28. in Perth. The General Assembly of the Kirk met in Edinburgh on July 5th and prepared a petition to Parliament or Convention. Five burgesses were included in the list of those chosen to present it, and it seems reasonably likely that ^{some of} the burgesses who attended the Assembly meetings were the same as those which attended the Convention in Perth.

	C.E.		G.A.
Aberdeen	Provost Menzies of Pitfoddells		
	R. Lumsden		
Ayr	James Bannatyne		
Dundee	Provost Halyburton	-----	David Ramsay
	J. Scrymgeour		
	J. Lovell		
	J. Fotheringham		
Edinburgh	James Barron	-----	James Barron
	Alex. Clark.		
	Alex. Githrie		
Glasgow	Stewart of Mynto		
	J. Fleming		
Montrose	Provost Erskine of Dum	-----	Supt of Angus
Perth	Patrick Murray	-----	Patrick Murray
	Th Momeypenny		
St. Andrews.			
	Provost. Learmonth of Dairsie		
	Martin Geddy	-----	Th. Wallace
Stirling	Alex. Forrester		
	R. Forrester		
	William Norwell.		

(1) Return of names. p. 535 B.U.K. p. 141

In July 1570 though Convention of Estates "Burghs, and Assembly met more or less about the same time, the Parliamentary lists are lacking and though nine Burghs were at the Particular Convention on July 19th the lists do not show very great similarity ~~since~~ The Assembly delegated the Edinburgh representatives Preston and ~~John Johnstone~~, with the Provost of Dundee and David Ramsay there, Patrick Murray of Perth, and Dun, to represent the burgesses in the presentation of a petition; the names of those present on the Burgh Convention do not correspond at all except in the case of Ramsay. Perhaps the General Assembly delegates were also the Parliamentary ones and the delegates to the Convention of Royal Burghs were their assessors. (1)

The Convention of Leith contained delegates from Montrose, (1) Dundee (2) Edinburgh (2) Irvine (1) Haddington (2) and two also from Leith.⁽²⁾ The Estates which met in November of that year show in the Personnel of the burgesses who attended a startling resemblance to the lists of those who at one time or another attended the Assembly. (3)

- (1) B.U.K.p. ~~221~~ 186 (2) R. Grahame; Halyburton and Christeson; Preston and Fullerton (the latter on the committee to deal with the Regent); J. Young; Cockburn, J. Gray. Leith is designated "the Kirk of Leith". B.U.K.p. 203
- (3) This list is as follows. Cupar, Sir David Lindsay; Dumfries H. Rany; Dundee Halyburton and Lovell; Edinburgh Preston and Fullerton, Glasgow Mynto; Haddington Cockburn; Linlithgow Charles Drummond; Perth Oliver Peebles; St. Andrews Thomas Wallace; Stirling James Schaw; (Return of Names p. 536)

In 1574 The General Assembly met on August 6, the Convention of Burghs on July 22nd, in March 1574-75 the Convention of Estates preceded the Assembly by a few days. In August 1575 the Assembly met on August 6 in Edinburgh. In Dundee on July 15 there had begun a Convention of Royal Burghs. Did this mean that the same delegates simply went from one meeting to the other, and that their commission stood good for both?[?] Similarly when the Royal Burghs met in March (17)⁽¹⁾ in Edinburgh and the General Assembly convened just a month later this must have meant that only the burghs near at hand would send representatives.^t In 1577 a handful of Burghs met in Convention on April 24th. Were these simply the towns (who were never numerous) who sent delegates to the Kirk Convention. In 1578 the Assembly met Oct 24 in Edinburgh,⁽²⁾ the Convention of Royal Burghs met in Dundee on Oct. 31. The personnel of this Convention might quite easily be the residue from the General Assembly meeting who would just have time to travel to Dundee to keep their appointment. (3)

(1) In point of fact this did happen in Glasgow in 1608 when James Inglis was sent commissioner to G.A. Estates and Convention of Burghs (Recs. I p. 286, 475) Glasgow made like the others no discrimination, there was no ecclesiastical flavour about their appointment of delegates to Assembly. George Elphinstone represented the town at the Assembly of March 1573-4 and also at the Convention of Burghs in July of that year (Recs. p. 451)

(2) C.R.B. p. 49

(3) ibid. p. 66.

The 1579 Assembly of July is important in showing how the Church kept in touch with the Burgh Organization, and the Estate of the Burghs. The Assembly met on July 7th. The Convention of Estates was to meet in Stirling on August 7th, and in preparation for business the Convention of Royal Burghs was appointed for the 5th of that month. To collaborate with this system the Assembly in drawing up a commission to present Articles to "Parliament" ^{and 10 lairds} delegated 31 Ecclesiastics, who were to meet "with sick as sall have commissioun and be direct from the Burrowis" two days before the holding of Parliament for the purpose of submitting articles in the name of the Kirk. Although the Parliament did not "hold" till October and although in the sederunt of the Convention of Estates there is no list of Burgess members some relations probably were established. The Burgesses present in the Convention of Royal Burghs in August show a list of names familiar on the General Assembly. and it was in this convention that the question of the Campvere minister was broached. The Convention of Royal Burghs also met in October to coincide with the Parliament and the burgess element in the latter were probably instructed by the ecclesiastical interest.

(2)

(1) B.U.K.p.436

(2) see Return of Names Pt.II.p.537
C.R.B.p.80

In 1580 the General Assembly met on July 12th in Dundee, but the Convention of Royal Burghs was meeting in Aberdeen July 11-16 and there was no possibility of joint personnel, yet the Burghs certainly did attend the Assembly ~~on~~ at least the wealthier ones did for John Johnstone of Edinburgh, Richard Blyth of Dundee and George Elphinstone of Glasgow were member of the commission to go to the King. In April 1581 the Convention of Estates met in Edinburgh on the 3rd, the Convention of Burghs from the 17th to the 23rd but the General Assembly was held in Glasgow on the 24th. Did the burgesses simply go from one assembly to another with very little difference in personnel? It was this General Assembly which registered the Second Book of Discipline, and Calderwood in reviewing the situation provides a list of those members of Assembly who were present 1578-to 1581. These lists show as regards the burghs that the representation must have been fairly constant. The quota seems to be intended to be a collective one of all present in these Assemblies. In that case several Towns must have been represented by the same person in all Seven Assemblies. For Edinburgh he gives the collective list "John Johnstone, Alexander Clerk, John Adamson, Clement Little.

(1) Namit and constitute with avyse of the ministers eldaris and dekynes of the kirk of this Burgh Mr James Lowson minister, and John Johnstone of Elphinston their procurators and commissioners to the General Assembly of the Kirks of this realme to be haldin and begun in Dundee the xii of this instant with power to vote etc.... (Edin. Recs. IV. p. 167)

(2) B.U.K. ii. p. 473

July 1580

(3) Calderwood III. p. 527

stirling in his list must have been constant with Robert Alexander. (He was also on the Articles in the Parliament of October 1579) Glasgow had George Elphinstone (1) (He also was on the Articles in the same Parliament) Robert Stewart (of the Mynto family?) and John Grahame who represented the burgh in the next Convention of Burghs in October. The Dundee Commissioners are noted by Calderwood (2) as Robert Read and Richard Blyth the latter of whom had had represented the Burgh on several occasions in the Convention of Burghs. These four burghs are the only ones of "Royal" standing whom he mentions. This cannot be complete for Perth representatives are noted as present in this very Assembly and in the preceding one. It is not therefore valuable for purposes of statistics (3)

An important meeting for our purpose occurs in October 1581. The General Assembly met Oct. 17-29, the Convention of Burghs Oct. 17-26, The Parliament Oct. 24- Nov. 29 (4) (5) A comparison of the personnel of each is instructive. Statistics for the Assembly membership are of course fragmentary, but the list of those chosen to present the Kirk Articles to Parliament shows, in addition to two lairds and several ministers, that 7 burgesses were named. Aberdeen 1

(1) Return of names. p. 537

(2) R.G.B. p. 110 ii.

(3) B.U.K. p. 468

(4) B.U.K. ii. 522

(5) R.C.B. i. p.

(6) A.P.S. II. p. 193

To Leith and the Canongate he gives three delegates each Leith. J. Williamson, G. Ker. J. Little. Canongate J. Seton Alex Segatt, Thomas Hunter.

Edinburgh 2, Dundee 2, Montrose 1 Perth 1.

The Burghs on the Articles were Aberdeen, Edinburgh, Dundee
Perth, Glasgow St. Andrews and Ayr, and their election was
on 30th Oct.

The lists are these:-

Parly.

C.R.B.

General Assembly

Aberdeen G. Menzies

Menzies?

{ Menzies?
* A. Rutherford ex. P.

Ayr R. Jameson

A. Rutherford ex. P.
R. Jameson.

Dumfries A. McBrair

Edin. { Alex. Clark P.
 J. Johnstone

{ Clark
 J. Preston
 R. Ker.

{ * Thomas Craig
 * J. Johnstone
 John Preston
 * Halyburton
 * Alex Scrymgeour
 J: Annand (1)

Dundee J. Halyburton

Elgin. J. Annand

Annand

Glasgow Stewart of Mynto

Edinburgh W. Brown

{ Brown
 J. Ramsay.
 W. Baillie
 W. Wilkin
 Thomas Gray.

Inverhess W. Baillie

Lanark W. Wilkin

Montrose R. Lichton

R. Lichton

* R. Lichton
* H. Adamson.

Perth { Henry Adamson
 P. Quhitlaw

{ Adamson
 Quhitlaw
 Conqueror

St. Andrews Learmonth

Stirling J. Stewart

Wigton J. Ahannay

W. Cock bailie
R. Alexander

Thus the Burgess Lords of the Articles have a marked
relation to those burgesses who were entrusted to
present the Kirk Articles. In addition the vote in
Parliament was discussed by a committee in General
Assembly, and the burgesses chosen for this purpose
were The Provosts of Edinburgh and Stirling, the Commission
ers of Edinburgh and Stirling, Perth Montrose and Leith
(Leith and the Canongate are mentioned in Calderwoods list
from 1578-81 and they continue to come to Assembly though
debarred from Parliament and Convention)

Now in this very convention of Royal Burghs no fewer than 20 were absent from convention and their unlaw was marked against them. Among them were included Stirling, Glasgow Dundee; St. Andrews, Wigton, while Aberdeen was certainly absent in Sederunt but was not unlawed. As Mr. Mackie and Mr. Pryde say (p.23) The legal point is clear; they ought to have been at both assemblies" of Parliament and Convention but only attended Parliament. I would suggest that instead of attending Convention of Burghs they were preparing business in the General Assembly. ie. Stirling both Provost and G.A. commissioner Dundee both Provost and Commissioner, St. Andrews (probably) and Wigton (also probably) since its Parliamentary representative on this occasion, did certainly in 1590, attend the Kirk Convention. (cf Rait. Parliaments of Scotland on this point p.272) If this were so it would seem that some burghs preferred the General Assembly to their own Convention and the legislation of the Burghs in the following June was a justifiable pre: (1) :caution against the encroachments of the Assembly.

While this June Convention of Burghs was meeting in Perth, from the 15th to the 23rd, the General Assembly of the Kirk began its sessions in Edinburgh on the 27th. This would give time for the Commissioners of the Burghs to come to Edinburgh for the Assembly. The fact that the important Burghs sent two three and four delegates to

the Perth Burgh Convention seems to hint that the additional commissioners probably intended to withdraw to Edinburgh if the Convention sittings extended beyond the date fixed for the Assembly.

(1)

The October Convention of Estates coincided with the General Assembly and the relation of the burgess Estate in both although no records of either personnel are extant, must by inference have been fairly close.

(St. Andrews sent its Town Clerk David Russel to the Assembly while Glasgow was represented by Adam Wallace Bailie)

On the restoration of the Lords and Ministers after the Black Act period we have a General Assembly in May 1586 (10th) preceded by a Convention of Burghs in Cupar May 2-5. The burgesses who attended there are just from previous experience the persons we should expect in a General Assembly.

In 1587 the General Assembly met in Edinburgh on June 20th (B.U.K. ii. p. 685) the Convention of Burghs July 3-6 in Dundee and the Convention of Estates on July 8th. Is ecclesiastical influence to be traced in the definite steps taken to provide a minister for the Scottish staple at Campvere, when Edinburgh Dundee Aberdeen Perth Glasgow and Linlithgow were appointed to consider the details of provision and nominate and elect the minister "be the Advyse of the Kirk and Assemblie thair of". (2)

(1) B.U.K. p. 576 C.R.B. pt. i. p.

(2) R.C.B. i. p. 234

To the extraordinary Assembly of February 1587-88
 which followed the tumults of January, there came several⁽¹⁾
 Burghs. A convention of Burghs met at the same time in
 the Capital, while though no convention of Estates is
 stated to have met the Baron Lairds were certainly in Edin:
 to arrange the details of their representation with the King.
 Both Assembly and Convention of Burghs met on the 6th of Feb:
 ruary and the relationship in personnel in this case is
 certainly striking. In the Convention there were only 9 burghs
 present and the Privy conference and delegation to the King
 account for at least 4 of these. I would suggest that the
 Burghs who answered the Assembly's call took advantage of
 the opportunity to hold a Particular Convention of their own.

C.R.B.

(2)

Edinburgh

J. Arnot
Edward Galbraith

General Assembly

John Johnstone
John AdamsonAberdeen⁽²⁾

W. Menzies

W. Menzies

Anstruther

Alex. Black

Cupar

Thomas Williamson

Dundee

Alex. Scrymgeour

Alex. Scrymgeour.

John Finlasoun

Perth

Oliver Peebles

Oliver Peebles

Glasgow

R. Boyd.

R. Chirnsyde

Linlithgow

Charles Drummond

probably

Andrew Ker.

St. Andrews

David Watsoun

Probably.

(1) B.U.K.p.703

(2) C.R.B.i.p.269

This convention considered still further the question of the Campvere minister but for some years nothing definite was done.

The year 1590 provides a full sederunt of the General Assembly in August. A convention of Estates met on July 29 but the Convention of Royal Burghs had coincided with a previous meeting in June. The General Assembly's sederunt was small as regards the burgess element. For only Stirling (2) Edinburgh (3) Wigton (3) and the unfree Leith (2). Is this a complete list or ^{if no} does it mean that in the absence of the Burghs Convention the Assembly was poorly attended by the towns?

(1)

In 1591 the Convention of Burghs met in Montrose in June 16-21, the General Assembly met in Edinburgh July 2nd when it held at least 17 sessions and the Convention of Estates met in August in Edinburgh. (6th). Parliament and Assembly coincide in May 1592 but no statistics are available. Is it only coincidence that the extraordinary Kirk Convention in November 15-20 was held only a short time after the Convention of Burghs Nov. 2nd (C.R.B. i. 426) which considered anew the case of Campvere.

(3)

In January 1593. some kind of a particular Convention agreed to share with the barons the expense of the Royal Guard
 (1) B.U.K.p. C.R.B. i. 392

(2) A.P.S. iv p. 525

(3) Calderwood. V.p. 173 Those burgesses who attended the C.R.B. were Edin. Nesbit and Galbraith, Perth, Adam Anderson Dundee J. Finlasoun, Glasgow R. Rowat St. Andrews David Watson Dysart. W. Carmichael.

While the Burghs recognized its decisions of the particular Convention (really the overflow from the Kirk Assembly) the Barons were unwilling to pay. (Jan 23-26 1593)

The year 1593 was an important year in the history of the relations between the General Assembly and the Burghs. Meeting in Dundee in April the Assembly "be the authoritie givin them of God discharges all and every Christian within the Kirk of Scotland from repairing to any of the King of Spaine his dominiouns quher the tyrranie of the Inquisition is vsed for traffique with merchandice negotiatioun or exerce of seafaring occupatioun untill the tyme the King's Majestie be the advyse of the Counseil hes socht and obtainit speciall libertie and licence from the King of Spaine for all his lieges and subiects to traffique in merchandize and ocupie within the haill pairts of the said King of Spaine his dominiouns without any danger to their persons or guds for the cause of religioun or conscience under the paine of incurring the censures of the Kirk untill the last sentence of excommunicatioun.

(1)

Placing economic questions thus in a position secondary to the religious and threatening with church censures for a civil point in trade, the Assembly went the length of sending a representation to the Convention of Royal Burghs when it met in Dysart in June. William Murray the minister of Dysart appeared in the Convention June 13th and in name of the Assembly produced the act quoted above, requesting that by their authority they would prohibit or suspend the

(2)

(1) B.U.K.p.817

(2) C.R.B. I.p.402

Spanish trade. The Burgh Commissioners present found that they had no authority from their constituencies to commit them so far to any policy, but undertook that every burgh should send its opinion by commissioner to the Convention of Burghs which was to meet at the same time as the Parliament in July. In particular the Provost of Edinburgh was appointed to receive these opinions by 8th July. (C.R.B. met on July 9th) For consultation with his burgh each burgess took home with him a copy of the momentous act. This would therefore ^{imply} infer that the majority of the burghs were ignorant of the proceedings of the Assembly. i.e. when there was no Convention of Burghs meeting contemporaneously with it the Assembly had a very small burgess element of "commissioners of Towns". The Convention or Estate of Burghs (since they were almost identical) agreed to accept the Assembly's ruling (10th July) and ratified their decision on 1st July 1595 although the act itself is not mentioned till July 1596. (C.R.B. p. 485) The merchants did not readily submit and Spottiswoode tells us that they petitioned for and obtained from the Council an acknowledgment of their liberty of trade. In spite of this the ministers proceeded with their censures until at last the merchants agreed to some kind of compromise and offered to cease trade with Spain after their accounts were paid. (1)

(1) SP. II. p. 432. He also cites the instance of the riot among the crafts of Edinburgh which directed against the ministry compelled these "King baiters" to desist from their demand for the change of the market of Edinburgh from Monday, and this in spite of the fact that the Town Council had consented. The church was thus more successful with the King than with the commons in dictating policy.

This Spanish trade was of value to the merchants.

The burghs desired free import and export when prices fell below a certain point, "arguing that they could develop a trade with Spain and Portugal if they were free to export" (1)
The landed interests would have had import prohibited.

Since the export of victual seems to have been primarily for the Spanish trade this explains the Assembly's activity in prohibiting it. From fairly early days the Kirk in general had taken measures to prevent export as tending to aggravate famine conditions. Thus in the General Kirk Session of Edinburgh in 1574 April 29th an elder was censured for exporting victual "mair nor was in his licence". He refused to accept his punishment and his offence was again mentioned May 16th "for transporting of certane quheit furth of this realme without lycence or congye"

(2)

The year 1594 was a year of dearth in Scotland and the Convention of Burghs made an act on the question of export in June (27th) 1594. The Privy Council (3) did not deal with the situation until June of the following year but the church was active in its lower courts, for pro: (4) hibition of export apart from humanitarian motives would materially assist their schemes for suspending the "traffique" with Spain. The Kirk Session and Town Council had taken

(1) Pagan. p. 155

(2) Extracts Gen. K. Session Edr. Maitland Misc. I. 98.

(3) R.C.B. i. p. 455

(4) P.C.R. v. p. 221 annulled licences to export during the dearth.

had taken some steps to ensure the supply of the Capital (u)

NOTE. (1) And On 23rd October the Presbyterie of Haddington considered a request from the joint Kirk Session and Town Council "lamenting the great famine the chief cause of which was the export of victual by men dwelling on the sea coast. For the part of Edinburgh they had prohibited merchants to export during the year "under alsweill civill as ecclesiast: icall panes" and they exhorted the Presbytery since the cause was a general one to cause every minister to admonish his flock to the same purpose. The Presbytery acquiesced and set a penalty of public admonition against all contraveners. In the following month Nov. 20th a similar letter was received from the Session of Edinburgh which still further involved the Kirk in affairs which by right should have been executed by the Convention of Royal Burghs, in the matter of trade at least." Anent the sute of the Edinburgh session desyring us that seing thaȝ heir say that the victuall within our boundis quhill is forbidden to be carret to uther partis by see is like to be transportit by land to berwick; That we wald tak some substantious ordour for preventing the said daunger and farther if we knaw ony that dois the same that we wald delait thame unto thame that are ~~ewest~~ court" Upon enquiry it was found that one Robert Hepburn of Merkle had "great store of wheat in a loft in North Berwick which he ~~intended~~ to export to the hurt of the Commonwealth. They accordingly report to the Session and Council of Edinburgh.

In 1594 the Parliament met on May 20th, the General Assembly on May 7th. The list of Burghs chosen on the Articles contain names which might very readily have appeared as representatives of the burghs in the Assembly.

In 1595 the General Assembly met in Montrose on June 24th and it seems almost certain that the meeting of the Burghs on June 27-31 was held in Montrose likewise. The same representatives probable went to both meetings.

In July 1596 the General Assembly directly through its representative Peter Blackburn the minister of Aberdeen approached the Convention of Royal Burghs⁽¹⁾ which was holding its sessions in the town, urging the division of parishes in burghs and the settlement of adequate provision for the minister.

In the sederunt for the joint Convention Assembly at Perth 1596-97 is it significant that only "Commissioners from Presbyteries" are mentioned as present. The burghs 9 of whom were at the Civil Convention probably did not send separate representatives to the Assembly and these preferred the Civil interests before the ecclesiastical.

The influence of the Convention model is apparent in the regulations set down for the number of representatives to be sent from the burghs to the General Assembly, for the rule had not yet apparently become fixed

(1) C.R.B. i. p. 491

for the Parliament. (See the arguments advanced by Mackie and Pryde p.7 and 8 and compare with Rait.p.272 who suggests Parliament did not accept the system of one for each burgh and two for Edinburgh until 1619, Although there had been an act in existence since 1578 regulating the attendance at the Convention of Burghs to this quota.)

At the conference at Falkland in July ⁽¹⁾1599 the Convention of Burghs was also in attendance. In 1600 the Convention of Burghs met in Edinburgh March 3-6, the General Assembly met in Montrose 18-21 while the Convention of Estates was held in Perth March 28th. There are few statistics available. The Parliamentary records give no information, and the names of the Aberdeen and St. Andrews representatives which are extant ⁽²⁾ do not correspond to those ⁽³⁾ representing the Burgh on the Convention. It is just possible that different delegates were sent to the Convention of Burghs, and those of the Convention of Estates and the Assembly might be identical. In 1601 the Assembly was held at Burntisland on May 12th. The Burghs met at the same place about the same time. On 10th June the Edinburghs Accounts show a ⁽⁴⁾ payment to George Heriot for him and his company as Commissioners to Burntisland. He and John Johnstone represented the Burgh on the Assembly. (B.U.K.p.971)

(1) Did the second burgess for Edinburgh on the Assembly represent the Edinburgh crafts as he did in Parliament and Convention of Burghs. (Rait.p.299) act of 1584 *G. Heriot*. Is it thus that we find "James Yong cutlar" in the 1562

(2) sederunt.

Thomas Mollison Town Clark (Recs. Spalding club.p.72)

(3) Mr. William Russell .K.S. Recs.p.92

(4) R.C.B. ii.p.552

Between 1602 and 1618 coincidence between Assembly and Parliament were studiously avoided by the King. He had already begun to exercise undue influence in Burgh elections (as early as 1590) in demanding the return of lords earls and barons. By 1604 he had gone so far as to nominate the magistrates of Edinburgh, and the apathy of the Burghs to the overthrow of the Assembly is partly to be accounted for by this corruption, which would undoubtedly affect the return of members of Parliament and Convention if it did not affect the few burgesses who did attend the Assembly.

(1)

In 1602 the Assembly contained two representatives from Edinburgh John Robertson, and George Heriot, from Dundee William Ferguson, from St. Andrews William Russell Burntisland Patrick Greiff, while Leith the unfree broke the Act of 1598 and sent two delegates, Jerome Lyndsay and David Orok.

In 1606 by its constitution the General Assembly of that year had no burgess members. But in 1608 there were several. The Assembly met in July 26-30, and had been preceded by a Convention and by a Convention of Burghs at Selkirk July 5-7. At the Convention of Burghs 41 Burghs were present. Whether they were influenced unduly by Royal Authority or not their neutrality as a Convention was assured. The King sent them a letter protesting against
 (1) See. Rait. pp. 302-303

the support given to the exiled ministers by merchants travelling to the Low Countries, and evidently fearing that they might appoint one of them the minister at Veere insisted that no appointment should be made without his sanction and approval of the choice. The Convention acquiesced and gave order that the Magistrates should prohibit any such relief, and the election of a Staple minister was delayed for four years. The Royal letter also made mention of the "cauldness" of the Burghs in giving up names of Papists and Jesuits and the Convention humbly promised amendment and thanked his Majesty for reminding them of their duty. (1) The burghs having thus pledged themselves those who attended the Assembly could not be expected to run counter to the Royal wishes. The representatives of St. Andrews Edinburgh Perth and Glasgow were mentioned as being appointed on a committee to receive the royal answer to a Petition to the King on Papistry which they had just considered in their own meeting. Glasgow's representative in both Convention of Burghs and Assembly was the same man James Inglis. The others unnamed probably were likewise identical. (2)

(1) R.C.B. ii. p. 261; *Balfour Annals* ii p 27

(2) No objections were raised by the constitutionalists as to the Burgh representation when they were assigning the reasons for annulling.

The position of the Burgesses in the Assembly of 1610 is not clear. Edinburgh sent two(Edward Ker and Mungo Mackal) Perth sent one Gavin Dalzell, Dundee sent William Ferguson, Aberdeen sent Alexander Rutherford, St. Andrews sent John Knox. and Glasgow sent J. Forrest. Though probably not his nominees, the King had so much influence in Burgh elections that these men, although some had been on Assemblies before, had no principle at stake, in the troubles of the Kirk which prompted them to action. The Parliament of 1612 which sanctioned Episcopacy had a large representation of Burgesses many of whom had been the Kirk's old allies. The ministers themselves in the main were acquiescent and afraid of the Royal displeasure

The burgesses in the 1616 Assembly at Aberdeen were unknown in number, but in the records there is mention of the the representatives of Edinburgh, of the Provost of Aberdeen, and of Representatives of Perth. (see B.U.K.p. 1126) The reasons for annulling state that besides the double representation from Edinburgh, three other Burghs arrogated this privilege, ie. Glasgow Cupar St. Andrews. Therefore six burghs at least were present If there were 53 burghs entitled to send to Parliament in 1612 and Calderwood says that in this Assembly 44 were absent that means nine did come-a proportion greater than any recorded in the Official full sederunts such as are extant.

The 1618 Assembly met in August, a Convention of Royal Burghs had preceded it in the previous month but the personnel shows little similarity. Edinburgh sent to the Assembly David Aikenhead and G. Foulis, Perth sent J. Aedie and Constant Malice Dundee Alex. Wedderburn, Robert Clayhills, Aberdeen John Mortimer,

Burgh Stirling, Christopher Alexander, St. Andrews, John Knox and
 Res. p. 50 (2)

Aug. 17. Thomas Lenton, Glasgow also is stated elsewhere in the
 sent to
 nps. 6 record to have had two representatives present. The reasons
 GA for a
 minister for annulling of course point out the unconstitutional

duplication of representation but one thing seems to be notable. The unfree burghs have disappeared. It is stated 36 burghs were absent. Were the annullers calculating on the roll of 1535 when 41 burghs were in existence or does it mean that 17 burgh were in attendance on the Assembly. How far these Burgh representations were influenced by Royal and Episcopal pressure is unknown, but when the Bishops took such care to control the burgess vote in Parliament (1621) and to censor the municipal elections e.g. Elgin, the burgh (Rait p. 303) representation was probably instructed beforehand as to behaviour in Assembly. But the Burghs always a practical Estate had no interest or principle at stake to rouse themselves in the defence of a Presbyterianism the leaders of which, at one time the most zealous opponents of Episcopacy, had accepted the office of Bishop. The burghs had forbidden by their own statute any dealings with the outlawed minority.

(1) At last with the King's consent a minister had been appointed for Campvere, confirmed by King and Archbishop in 1614. It was not till 1642 however that the Town was represented on the Assembly. Elders were to come once in three years and the G.A. was to pay expenses (Davidson and Gray Chap. V. p. 271)

The conclusions of this examination must be that the same type of person who represented the Burghs in Parliament and in the Convention represented also the burghess element in the General Assembly. The personnel in many cases identical was almost always interchangeable. There was apparently no restriction or qualification which prevented a civil commissioner from attending also in the capacity of ecclesiastical commissioner. The actual individuals were no more spiritual persons than those who with no moral or ecclesiastical obligations attended the Civil Conventions. Whatever the principle of election in the Kirk the return of members was no more representative of the unfree element than the return of representatives to Parliament and Convention of Burghs where no man under the rank of merchant might sit. The "Kirk" which professed the equality of all the godly was returning the same delegates as the institutions which deliberately excluded the large proportion of the commons from any voice in government. This principle of election in the church was stated in 1568 to be the joint duty of the Lay Town Council and the Kirk Session. But in the restricted condition of Burgh finances the principle of economy which was the driving force in producing the identity of Convention of Burghs and the Estates of the Burghesses in Parliament was also at work in the return of representatives to the General Assembly.

The people who paid would be the people who had most say in the appointment of representatives. Now although the Kirk had a system of voluntary contribution and house to house collection which in later years was used with great effect for such purposes as upkeep of bridges harbours and roads and was recognized by the Privy Council as the most effective way of raising money for a special purpose, yet there is no evidence that this system was used for the payment of the Commissioner to the General Assembly. In practically every case the payment of the representative was recorded almost automatically in the Burgh Accounts.

Payment of Commissioner (1)

Thus in Glasgow in August (3rd) 1573 there was given to "Maister Henry Gibbsoun for his expensis in ryding to Edinburgh and remanying thair to the Assemblie of the Kirk haldin the 6 daye of August.....£6"13.

(2)

And again on March 22nd 1573-74 George Elphinstone bailie got £10 to ryd to Edinburgh to the General Assemblie of the Kirk.

(3)

Once more in 1608 July 16th James Inglis was appointed commissioner both to the General Assembly & Convention of

(1) Mr. G. S. Pryde deals with the payment of the Commissioner to the General Assembly in his account of the Scottish Burgh Finances. see also Mackie and Pryde on the influence of the principle of economy in determining the identity of C.R.B. and Burgess Estate.

(2) Burgh Recs Soc. Glasgow Accounts 1573.p.448

(3) ibid.p.Treas. Accounts.p.451

of Estates and to the Convention of Royal Burghs. On August 8th he received for his expenses £19. "To James Inglis Bailie for his expenssis as commissioner for the Town direct to the General Convention of the Kirk and Estaitis haldin in Linlythgow."

(1)

In Aberdeen where there was an exceptionally free elctorate in Burghal affairs the commissioners expenses were similarly paid by the town . In the Dean of Guild's accounts 17th March 1599-1600 Thomas Mollison Town Clerk for his charges in keeping the General Assembly at Montrose according to the ordinance of the Council received £13-6-8. The case of the Convention-Assembly at Perth in 1596-97 is doubtful since it is not likely that Burgess Commissioners attended the Assembly as separate commissioners, but for that Convention Alexander Rutherford the Provost and Robert Menzies were granted £100 for their expenses in going. When their Minister John MacBirnie was summoned before the King and Commissioners of the Kirk at Falkland, the Town Council paid his expenses £13-6-8, and sent Alexander Cullen in the same voyage to Falkland with above" paying him £31-13-4.

(4)

Other Accounts bear this out that the payment

(1) Glasgow Accounts. p.475

(2) Aberdeen Dean of Guild's Accounts Spalding Clob Miscellany Vol V. p.72

(3) Treasures accounts p.121

(4) ibid. p.81

of the Commissioners to the General Assembly was one of the ordinary items of Expenditure.

Since therefore it was the Lay Council who paid it was only natural that we should find the Lay Council in the majority of cases actually appointing the representatives to the Assembly without in many instances consulting the Kirk Session at all although the latter according to the Law was entitled to equal privilege. In Edinburgh it was almost always the Town Council who appointed e.g. Records III.p.138 1562 June; June 1563 p.161 December 1563 p.175, December 1565 p.211, December 1566 p.226. In 1580 the Kirk Session was certainly consulted and the representatives (the minister James Lowson and John Johnstone of Elphinstone) were "namit and constitut with avyce of the ministers elders and deekynes of the Kirk of this Burgh, their procurators and commissioners to the General Assembly of the Kirks of this realme to be haldin and begun in Dundee the xii of this instant with power to voijt con: clude and determinat with the rest of the commissioneris of this realme in all thingis concerning the glory of God and the welfair of the Kirk". And on another occasion (1) the Assembly deferred the petition of the Town for a minister because it was not given in in the name of the ministers elders and deacons in addition . Although the Council did (2)

(1) Records.IV.p.167

(2) ibid.IV.p.460 12th May 1586

consult with the Session on the point there is no evidence that had not the question of the minister been involved the Session would have been referred to. While the question of the minister was still agitating, the Session was present on 21 June 1589 to hear the report of the Commissioner to the Assembly. But it is stated that only certain of the ministers elders and deacons "attended". Does this imply in view of the supposition that the Town Council always contained a large proportion of the Kirk Session, that this meeting was virtually only the Town Council part of whom might decide to sit in their ecclesiastical capacity, augmented by the presence of the ministers whose attendance on Council was no innovation and whose rank in civil status was that of a merchant burgher of Guild. It was Edinburgh Town Council also which appointed the delegates to the Synods of Lothian. (2)

Glasgow records show similarly that the Town Council had a practical monopoly of the election. In the critical Assembly of 1638 the Town Council not only elected the town representative but insisted that he should be accountable to them for his vote and procedure. The Kirk Session's part was not even hinted at. (4)

(1) Edinburgh Records. IV. p. 545 (2) IV. p. 408, 456, 527

(3) e.g. in 1600 they appointed James Bell to go to the Assembly Recs. I. p. 213

(4) Glasgow Records. I. p. 393 He was not to give his vote on any material point without first intimating the problem to the Council and Bailies. They appointed Patrick Bell the Provost, and he did consult them as to whether he should continue in the G.A. after it was dissolved.

Indeed during the Civil War period, which by many was regarded as the time when the Assembly did thoroughly represent the Scottish national feeling, this system of appointment by town council was a general rule and there are many perfectly definite instances of it in the Records. Thus Banff Burgh Court Book records that on 16 October Andrew Baird Bailie was appointed commissioner for this Burgh for Keeping of the General Assembly and he received £100 for his expenses; in 1639 the same man was appointed to attend both the Parliament and the General Assembly which were meeting simultaneously in August and he received a special allowance for clothes for attendance on the Kirk meeting. Among other instances we find July 24 1642 Alexander Douglas provost commissioner to the Assembly appointed by the Council, and the same man in May 1644 sat in both Parliament and Assembly and his expenses were the same sum as that which had been allocated him formerly for the Assembly alone i.e 46/8 per day. The principle of economy is obviously at work, and in the XVIIth Century the conditions were the same as those of the XVIth. (4)

(1) Records of Banff Burgh Court Book. p.81

(2) July 24 1639 p.82 His expenses furth and hame amounted to £80. In the same year payments were made to Baird

(1) as commissioner to the convention of Royal Burghs Jan. 1639.....£70

(2) for keeping the assemblee at Glasgow in Nov. 1638 £66-13-4.

(3) as commissioner to the Parliament May 1639 ...£66-13-4

But he got double expenses for his double duties in 1639 p.83 (3) see pp.87-91

(4) Another instance is Elgin New Sp.Club Vol.I p.160

Oct. 2nd 1581 John Annand chosen in Burgh Court to go to Parliament, General Assembly and C.R.B. paid from burghs fine

The Kirk Session of St. Andrews on the other hand seems to have regularly elected its own representatives to the General Assembly without consulting the Town Council but as St. Andrews was an aggravated case of the identity of the Town Council and Kirk Session election in the one body meant practically election in the other.

(1)

Other towns seem to follow out in some degree the rule of 1568. In 1618 14th July in Stirling the Provost bailies and Town Council and a great many of the elders and deacons convened to choose their delegates to go to the General Assembly but the election of a minister was involved

(2)

and the case was therefore not altogether normal. In the Covenanting period however Provost Bailies and Town Council together with the ministers and Kirk Session elected in July 1639 the Provost of Stirling their commissioner to the Assembly thus fulfilling the provisions. (3)

Thus although at this period it is dangerous to dogmatize it seems clear that the Town Council has taken the lions share in the election of representation to the Church Assembly. That is that a Civil Body has taken upon itself an ecclesiastical duty. The whole problem is an admission of the inextricable manner in which Town Council and Kirk Session

(1) see K.S. Records Scottish History Society D. Hay. Fleming. pp. 406 March 1574, p. 478 April 1581, II. p. 526 April 1584 June 1595 p. 798, 1600 March p. 920

(2) Burgh Recs. Soc. Stirling. p. 150

(3) ibid. p. 182. The Kirk Session printed Records Maitland Misc. Vol. I. from p. 127 Extracts Nov. 1597- Dec. 1649 give no hint of elections.

were confused, and in those days differentiation of function was little recognized. No delegate to the Assembly was appointed by the Town Council who was not also a member and an elder in the Kirk Session. The two bodies in many cases were practically identical in personnel and in the case of Montrose as late as the end of the XVIIth Century the Kirk Session was simply another name for the Town Council and consisted of the present provost and the three reigning Bailies, the exprovost and the three ex bailies and two Councillors. The other 9 councillors were included in the deaconry which was large 48 and yet only held 9 craftsmen. The remainder were the younger members of the ruling families who intromitted with the Kirk funds with the same corruption as they intromitted with the Common Good for the benefit of themselves and their friends the neighbouring lairds.

(1)

It can be shown that the Kirk Session became in time if it had not been so from the very beginning the stronghold of the ruling merchant classes who were thus supreme in ecclesiastical government as they were in Municipal affairs. It is this fact which really accounts for all the troubles and confusion of jurisdictions, and which explains the phenomenon of an ecclesiastical Court fining and imprisoning often for a civil offence. It really was not the church court which was doing so but its Bailie-Elder constituents who did not differentiate between their Civil and Ecclesiastical functions. *An independent point*

(1) Montrose Kirk Session and Town Council Records. March 1st 1687 MSS. in possession of the Burgh.

What then was the constitution and composition of the Kirk Session which thus shared with the Town Council the whole government of the municipalities.

Kirk.Session and its Constitution

Although prior to the Book of discipline Kirk Sessions had on foreign models been set up in the chief towns such as St.Andrews and Edinburgh, the formal establishment of this lowest church court was the work of the six Johns in their chapter upon elders deacons and their election. The elders and deacons they said were to be men of the best knowledge in God's word and cleanest life, faithful and of most honest conversation that can be found in the Kirk. The names of these were to be published and publicly read in the church by the minister who was to give advertisement that from these must be chosen the "Elders and Deacons" .This left some power of selection with the "Kirk" but with what proportion of the congregation the real choice lay it is hard to determine. In St.Andrews they definitely stated that the election was in the presence of the "free burgesses".⁽¹⁾ The poor craftsman therefore was not apparently considered one of the electorate. Further nominations than those submitted by the minister were not forbidden and in the Book of Discipline there does seem to be an attempt to make the choice as free as was possible in XVth Century Scotland

(1) Confessions of Faith. 1719 Edition Vol.II.p.577.

The eight Head concerning the election and office of Elders and Deacons. SEE also Knox.

(2) K.S.Register.Sc.Hist.Soc.p.6.2

These Elders and Deacons were to be annually elected and the first of August was suggested as a suitable date. In point of fact the dates of election of Kirk Session in practice almost always were held about the time of the Michaelmas Head Court and the magistrates appointed to the Civil Council were almost automatically appointed to the Ecclesiastical Body.

But annual election did not mean that a member serving in one year was precluded from serving in the following year, but a fresh election had to be made if he was retained in office, in order to prevent "encroachments upon the liberties of the Kirk from long continuance in office". In spite of this precaution this was just what did happen and the leading families came to hold the same perpetual sway in the church councils as they did in municipal government, until the Kirk Session virtually ceased to be a democratic representative institution.

Deacons and Treasurers however received particular attention. Having once held office they were debarred from holding it again for the period of three years. There seems some reason to believe that in some sessions the diaconate might have been the stronghold of the crafts, who were always interested in the public expenditure from control of which in most Municipal Governments

they were debarred.

Thus in the first Book of Discipline there were several points left in doubt. (1) Who nominates in the first place or is it left arbitrarily in the minister's power, and how the final decision was to be arrived at.?
(2) How many elders and deacons are there to be?[?] The Book of Discipline itself recognized its vagueness and encouraged a lack of Uniformity. "How the votes and suffrages may be best received so that every man may give his vote freely, every severall Kirk may take such order as best seems so to them". It was natural that each Burgh should be guided on this point by its own civil and municipal "sett". A proud merchant burgess related by blood and marriage to the neighbouring laird families would never permit a humble unfree craftsman, be he ever so godly, to sit in judgment upon his public and private sins. The duties of the Kirk Session were defined as assisting the minister in all public affairs of the Kirk, i.e. determining and judging causes, admonishing the licentious and watching over manners and the conversation of "all men within their charge. Censorship of the minister which was one of their chief duties under this system was abolished under the Melvinian system of the sanctity of the clergy when the Presbytery received this function and only the clerical members at that when it came to a point of doctrine.

The theory of the first Book of Discipline was rank heresy to the Melvinian practice. If they objected to the interference of the King they would never have yielded to the injunction that the ^{lay} Kirk Session with consent of the Kirk and the Superintendent should depose a minister. The lay element in the Kirk Session had perfectly independent powers apart from the minister. Now in the country districts it was obvious that the feudal constitution of Scotland would imply the predominance of the local lairds and magnates on the Session. Were they such in godliness and impartiality as to be able to fulfil this spiritual office. In the towns in the same way a man might be of the highest Christian standards and "sing psalms like a weaver" and yet be disqualified by his craft and lack of burgess ship from any influence in Kirk Councils. The diaconate where he might have exercised some power was by the Second Book of discipline debarred from attendance on Kirk Courts and hence from any vote in the election of representation in the Assembly. The deacon at this ^{early} time seems to be on almost equal terms with the elder and both had to report to the Superintendent's Chief Kirk once a year on their own diligence and on that of the minister and his family. The particular office of the deacon was to receive and to distribute alms and collect all Kirk dues but it is certainly stated that "he may assist in

in Judgment with the ministers and elders". There seems no reason to believe that deacons were excluded from the exercise of discipline from the beginning, though it is clear that eventually they played little or no part in the development of the Kirk as a representative institution. In their zeal for the "their poor bretheren the labourers and manurers of the ground" to whose economic discontent in collaboration with the land greed of their masters the lairds the Kirk owed so much for the overthrow of the Papistry which was held responsible for such conditions, the originators of the Book of Discipline invested the deacons with powers to execute the Kirk demands for the remission of the hardships of the poor.. "Every man's teinds they said ought to be in his own hands and he must answer for them to the Deacons, rather than the minister whose stipend was only a part of the sum collected, the remainder going to the poor and the schools. The labourer they claimed was debtor to none but the church. Had their plans been carried out the Deacons would have been a power to be reckoned with. They were however under the control of the superintendent who audited their accounts every year at the time of the election of the new Kirk Session. These Deacons who seemed so powerful and to held an office which seemed peculiarly a civil one, were in actuality the least influential of the orders simply because the Kirk Land Policy never bore fruit. The chapter concludes with a passage which

in the light of later developments of the Kirk Session is of the finest irony."If this order be perfectly kept corruption cannot suddenly enter. For the free and yearly Election of Deacons and Elders shall suffer none to usurpe a perpetuall Domination over the Kirk; the Knowledge of the Rentall shall suffer them to receive no more then whereof they shall be found to make accounts; the Deliverance of the Money to the new officers shall not suffer private men to use in their private business that which appertaines to the publick affairs of the Kirk".

Now in the Burghs the question of teind was a small one and the duties of the deacon were limited to collections from door to door, collection of the altarages and appropriation of fines which were to be allocated in cases of immorality etc to pious uses. The cooperation of the deacons of the crafts was often of value and in the later developments this explains the presence of the majority of the craft deacons in the church deaconry.

The constitution of the Kirk Session as laid down in the Policy was not very practical in that it assumed that its members would be extremely spirirual persons, very different from the somewhat unscrupulous merchant burgess of the day, and at the same time took no account of the existing social and economic conditions which would render nugatory such an illdefined theory of equality. No account was taken of the organization of the craft system of discipline.

No uniformity being provided for ,the system laid itself open to be abused by those who ~~had~~ most local influence. The principle of yearly election was from the beginning almost a form,for the same ruling families were re-appointed over and over again. The Second Book of Discipline tacitly recognized this which was in fact a form of corruption. The Church gradually adopted the theory of Government for the people rather than by the people.Had the Kirk been less rigorous in its demands for jurisdiction the necessity of the magistrate might have been dispensed with,but as it was the power of the Kirk as inquisitor and police of morals and manners was too great for the Municipal autocrats such as the Menzies of Aberdeen,the Learmonths and Russells of St.Andrews,the Tweedies of Peebles,to allow to get into any other hands than their own..

The method of election prevalent in Edunburgh and arranged probably at the instigation of Knox was that which the church recommended as a general order,just as the method of election of magistracy of the Capital was the model for the other municipalities.⁽¹⁾ This method was not by any means universal but it was formally ratified as the approved method in the Assembly⁽²⁾

(1) Mrs.Pagan.p.77 Act of C.R.B.'1552.

(2)B.U.K.p.568 see Knox.II.p.'151

of 1582. The leaders of the "secret reformed church" in Edinburgh were when the new religion was formally established naturally chosen to the office of elders and deacons. This according to Knox they patiently sustained for a year and more, after which time they asked to be relieved so that they might attend upon their own affairs. No stipend by the Policy was attached to either office "because their travell continues but for a year and also because they are not so occupied with the affairs of the Kirk but that reasonably they may attend upon their domesticall business." But the eldership of Edinburgh obviously found it too onerous as a perpetual duty, but the development showed that later Sessions were only too ready to perpetuate themselves. It was thereupon agreed that they the retiring session should nominate "such personages as they in conscience thought most apte and abill to serve in that charge". But they had to nominate double the number requisite "to the end that the whole congregation might have there fre vote in there election". Thus the retiring Kirk Session nominated 24 for elders and 32 for deacons from whom 12 elders and 16 deacons were to be chosen. The congregation upon the publication of these names was entitled to submit any other names they pleased "so that no man without the Church should complein that he was spoiled of his Libertie in Election". On the following Sunday voting by the whole communicants took

place and on the following Thursday in Session the vote was counted"where the maniest votes without Respect of persone hathe the first place in the Elderschip and so proceeding,..... so that if a poor man excede the rich man in votes he precedeth him in place and is called the first second and third Eldar even as the votes answer The deacons were selected in the same manner. Now this system seems fairly democratic in charac^{ter} provided always that the main body of communicants who correspond to the vague "Burgh Community" use their privilege of increasing the list of nominees. Otherwise a ring of 24 elders and 32 deacons could perpetuate themselves on alternate years for some considerable period. Appeal in fact to the community vote in point of fact almost entirely lapsed though in Elgin there were traces of appeals to the"haill body of the inhabitants."

The Second Book of Discipline altered several important details. It is insisted that Eldership is a spittitual office and that elders having been once called thereto and having the requisite gifts cannot leave it again just as the minister was forbidden to leave his function save to become a Doctor of Divinity"Albeit sic an number of eldars may be chosen in certane congregations that ane part of them may reliefe anuther for a reasonable space" Deacons or distributors as they were sometimes

called were rigorously excluded from the Session which like all church courts was henceforth to consist only of the "Governors" of the Church. They were no longer to assist in judgment, but were restricted to collection and distribution of alms and ecclesiastical goods, at the bidding" of the Presbyteries and Eldarships of the quhilks the deacons are not". (1) Thus was the electorate in the Burghs considerably reduced for the diaconate which had increased in numbers and was more pliable or less rigid than the eldership might have helped the Assembly to a more democratic form of constitution than it ever obtained. If a strong lay element of craftsmen had appeared in the General Assembly as a counterpoise to the merchant class in Parliament and Convention its hold upon the "commouns" would have been an indication of its democratic tendencies. As far as representation of the commons of Burghs went the General Assembly was by no means the People's Parliament". The "people" or "congregation" to landward meant for the Kirk the Lairds and Barons, in the Burghs as a rule they stood for the merchant and free burgesses. Of the rank and file they expected obedience but considered them "the baser sort" who might be legislated for but who could not be permitted to conduct that legislation for themselves.

With the theory of perpetual eldership they were approaching in theory what was already in practice Eldership was in the hands of a few ruling families who
 (1) Book of Discipline. Cap. VIII. See. Miss Macgregor. p. 123

"relieved" each other as they pleased. The principal of free election has gone but the form of annual election survived. In point of fact the Second Book of Discipline made practically no difference to a system which had almost from the beginning been a close corporation varying in relation to the freedom or otherwise of the parallel Civil Institution. Now the democratic "tail" was cut off the parallel was more definite. Numbers as before remained unfixed but were stated to be proportional to the bounds and necessities of the People.

With this constitution the Kirk remained content. They (the Kirk Sessions) rather resented the institution of the Presbytery which derogated considerably from their authority. In 1587 June they had to be warned by the Assembly that they must be subject to their Presbyteries". St. Andrews was one of those which was unwilling to submit to the rulings of the new institution. In the confirmation of the Policy in the Golden Act of 1592 it was stated that Particular Kirks if they were lawfully ruled by sufficient ministers and session, had power and jurisdiction in their own congregations in ecclesiastical affairs. It was in the question of its jurisdiction and its confusion with that of the Civil Municipal Powers that the church was best open to attack.

(1) Miss Macgregor compares the system to that of Geneva where elders could not lay down office without consent but an annual enquiry held as to retention. p. 122

The difficulties occasioned by the vagueness of the constitution and the individualities evolved by each organization for itself are reflected in the diverse opinions in the answers to James' Questions of 1596-97. The Synod of Fife thought the minister must moderate in the Kirk Session, but another view was that he ^(the moderator) ought to be elected annually. The Synod thought that it was not entirely right for the minister to appoint his session without consent of the congregation, but their suggestion implies that the godly minister will know what is best for the people who will therefore obey and give consent thereto. The other view was that the session should be elected neither by the Minister alone nor by the congregation which would only "introduce confusion" but by the ministers and others of the Presbytery. The synod considered that the elders and deacons were elected for life relieving each other according to the Book of Discipline, the other view insisted on annual election as the only way of preventing corruption. The considered opinion of Fife excluded definitely and finally the deacons from attendance on the Presbytery except in cases concerning the patrimony but the other more liberal view held that they as well as elders and pastors should have vote. The Synod of Fife held the dangerous doctrine of the vote of the best in session which was commonly not the majority, ^{of the minister} and exalted the personality. The other insisted upon the more logical majority rule. In the act of the general Assembly it was laid down in 1597 that henceforth sessions were to be elected by their own congregations. The King did not approve

of the tendency to exalt the influence and sanctity of the minister. He was prepared to support democratic forms rather than permit the minister to rule the choice of elders and deacons.

During the long interval of 20 years the Kirk Sessions continued their function under Episcopacy, but not many registers are extant whereby we might trace the development of the representative principle without the control of the General Assembly. In 1638 the ministers were prohibited from exercising a veto in Kirk Session business, and for the better supervision of eccentricities of constitution ⁽¹⁾ they were ordered to produce their registers once per year before the Presbytery. But there was no return to free election. In 1642 a statutory ⁽²⁾ change took place in the constitution although in fact it was simply a confirmation of the system which had been in existence for many years. It was enacted that henceforth the old Kirk Session should elect its successor both in Burgh and Landward. ⁽³⁾ Thus the Session was brought into line with the Town Council by a conscious modelling of the method of election there. This meant that the power might become as in fact it had in many towns already become concentrated in the hands of a few ruling families who would divide all authority civil and ecclesiastical among themselves. In the event of a vacancy by death or other wise the Kirk Session had power to co-opt

(1) Peterkin. p. 37 (2) ibid. p. 206 (3) ibid. p. 321
 1639 Aug. 29 1642 Aug. 8th st.

any person they pleased .Popular election was thus a dead letter. This Kind of Co-option had in the beginning been in the hands of the Town Councils who had chosen in the case of Lanark in Jan.1566-67 those who were to fill the vacant places on the eldership, and not unnaturally they chose some of their own number Edinburgh similarly (1) after the devastations of the Plague filled up the vacancies in Kirk Session and Town Council alike by means of the remainder of the Town Council

(2)

Eldership on the Session had several advantages which the ruling burgesses were unwilling to "let slip". Not the least of these was the Kirk Jurisdiction which if it was to be in any way effective must have the sanction and co-operation of the Municipal authorities.

In the majority of Burghs this co-operation was provided for by the presence of Bailies in the Session. Both Books of Discipline had insisted upon the Civil Magistrate "holding hand" to discipline and punish them civilly that will nocht obey the censures of the Kirk." without confounding alwayes the an Jurisdiction with the uther"(SEE the Office of a Christian Magistrate Chapter X Second Book of Discipline). In the early records instances of applications for the civil penalty were very frequent,

- (1) Lanark.Records.Burgh.Rec.Society.p.34. The list of the Council given p.42 shows that there was a common personnel
 (2) Edinburgh Council Records.p.443 15th December 1585

Complete control of the Session passed to the Edinburgh Town Council in 1618 when the old and new Councils nominated the members. (C VII p 454)

Thus the Edinburgh Magistrates authority was called in to insist that all booth doors remain closed during a fast. Usury being one of the Points of jurisdiction upon which the Kirk might cognosce there were several applications to the magistrates to execute the law against them, but these crimes were in the first place delated to the Kirk. (1) These formal applications to the Council were often made by those who were joint members of both (e.g. Adam Fullerton and John Adamson went March 19 1575 to ask the Council's co-operation in the expulsion of vagabonds) and two bailies conferred with the rest of the Council on the point of marriage without consent of parents.

Similarly the Council appealed to the session, and the result was a plan of co-operation in which the Elders of the different quarters of the Town assisted, and were assisted by, the Bailie of that quarter, in the majority of affairs affecting the whole discipline of the Burgh. This system was particularly valuable in the collection of moneys by voluntary contributions for both town and kirk purposes

(1) e.g. Oct. 22nd 1574 Bdr. K.S. Recs Maitland Misc. I.
Without going into the immense problem of jurisdiction which would form a thesis in itself it is enough to give a definition of the Jurisdiction agreed on in 1586. C. IV. p. 499 i.e. to consist of discipline doctrine sacraments correction of manners by excommunication and censures. Some offences properly pertain to the Kirk i.e. Heresy, apostacy witchcraft, Idolatry, Immorality, blasphemy, perjury usury, abuse of sacraments, breach of Sabbath. Others that the Kirk may only punish by censure and not cognosce upon were slaughter, Disobedience to parents child murder, "notwithstanding that the civill magistrate have remitted the penaltie of the law.

Thus Henry Nesbit one of the elders also a member of the council reported that "the counsall send for the haill deaconis of the craftis of the Birgh and proponit unto thame the ordour to be tane with the puire." Every man was to give a weekly contribution. They ordered the bailie of every quarter to go with the assistance of ministers elders and deacons of every quarter to enquire of every inhabitant what they will give. (1)

This co-operation in quarters was common to most burghs. St. Andrews had the same system for enforcing attendance at church and it was particularly well developed in Elgin. (2)

In Perth the elders names given on July 1st 1577 show the presence of three Andersons a family which was a power on the Council and supplied several members to the Convention of Royal Burghs, Oliver Peebles, Patrick Inglis and William Fleming all of them powerful burgesses - a small eldership. They were however more dictatorial in their demands. They "ordained" the Bailie to poind certain persons for flyting and fixed the sum at half a mark, but not long afterwards they fined on their own initiative. (imprisonment and fine of 6/8 for slander) but in cases of slaughter they were careful to escape

(1) Oct. 27 and Nov. 18 1574. Edr. K.S. recs.

(2) ST. A. K. S. Register. I. p. 394

(3) Spalding. Miscellany. II. p. 231

(4) Aug. 4th. 1578

(5) March 25 1579

snarcs of criminal jurisdiction by obvious reference to the Bailies. The Kirk Session autocratically demanded
 (1)
 the cleansing of the Cross that the door might be locked upon Kirk prisoners. Statutes repressing May Day superstitions
 (2)
 were made by Kirk Session with the consent of the magistrates present. (3)

The authority of these Bailies whose relation with the session was so close, was as sacrosanct as that of the Elders, if they were not always elders themselves. It was in the Kirk session that the assailant of Henry Adamson bailie and elder was sentenced, but it was certainly done in the name of the other bailies. Sometimes however they
 (4)
 repudiated jurisdiction altogether on a question of perjury and theft. (5)

Perth too had the system of co-operation in the quarters for tracking down Sabbath breakers in accordance with the act of 1579. But when the magistrates were lax
 (6)
 in obeying or refused to carry out the Kirk demands, the Kirk was ready with its weapon of excommunication. The first instance occurs in 1585 August when the Kirk party
 (7)
 was on the point of coming to its own again, and it was probably a division in the burghal politics which occasioned the threat. But the threat was to remain in force against

(1) AUG. 3 1579 Perth K.S. Records (2) Feb 2nd 1578-79
 (3) May. 2nd 1580 July 3rd 1581 (4) April 16th 1582
 (6) Dec. 22nd 1583 (7) August. 30th 1585

* The Kirk Session sometimes reserved the right to pursue for slander if the accused did not prove his case (Aug 28. 1598)

their successors in case they did not their duty. [cf. Act of P.A 1562]
 This threat had the desired effect. (cf. Elgin also June
 9 1591) But in other circumstances they were ready to fine
 slander of the "special and civil magistrates" of the burgh.
 In insisting that all merchants and craftsmen should keep
 the weekly preaching day the Session made an act which
 they entrusted to three leading citizens who were members
 of the Council to have ratified by the Council that the act
 might have civil strength".

(1)

As a general hypothesis it seems that
 the Kirk Session informed the Town Council through their
 joint membership of grievances which were more readily brought
 to their notice than before the Burgh Court. There is
 evidence that the Kirk Session was sometimes looked upon
 as having powers as wide as those of the Town Council.
 For this there was some excuse for the joint personnel
 undoubtedly increased. Sometimes they even made enactments
 in which both sections were mentioned. It was concluded by
 the Kirk Session and so many of the Town Council as were
 present". (2)

In Elgin the Kirk Session seems to have been
 small but containing the civil magistrates conducted
 affairs in a very competent way. March 1586-87 shows a

membership of only 7 elders and two deacons but the Provost (3)

(1) March 22nd 1587 Perth (2) May 25 1620 ibid.

(3) This provost got special permission to satisfy privately
 for immorality for the sake of the respect due to his
 civil function. Elgin Records New Spalding Club. II. p. 4
 He repaired a window in the church in return for the
 favour.

and an ex Provost at least of the Council were included. and in the election for 1587-88 the same people were reappointed with the addition of 7 thus completing the list of 14 of whom only two were deacons. Elgin Kirk Session ruled as autocratically as the Town Council, and in referring to themselves they almost always speak of "the Bailies and Elders". It would appear from examination of the records that in Elgin the minister (1) was of the greatest power while the "Bailies and Elders" represented the municipal rulers who were the driving force both in civil and ecclesiastical affairs. For purposes of stenting, this element in the Kirk Session was very useful. Sometimes even the body was referred to as "the ministers elders and Counsall". (2) In the matter of the poor law the Kirk Session had a kind of power of supervision over the Council and justices who by the act of 1579 had been given the execution, and had the Council been inimical to the session it must have viewed with some concern the frequent summons directed by the Kirk Session through its "Officiar" to the "haill honest men" to attend for execution of their plans.

(3)

(1) 1590 April. 30. Elgin Recs. II. p. 13 ordained to remove the Sunday market; and 1591 May 26

(2) *ibid.* p. 23. The examination before communion at which all feuds were supposed to be reconciled

(3) Feb. 4th 1596-97 mass meeting against the beggars.

Similarly when the Kirk of Elgin required repair it was the elders who "laid" the taxation in Burgh and Landward and fixed it at the rate of 16/ the "pleuch". (p.46) If the majority of the Council had not been present would they have permitted this "stent" within their bounds without their permission having been required. The magistrates voluntarily invested the rest of the session with their powers in perambulating their quarters for delinquents. (i)

A system of police control was enforced by the session whereby they enjoined every inhabitant to report the presence of any stranger in their house to the Bailie of the quarter. (2) From December 1595 in fact, in governmental affairs the Kirk Session had virtually taken the place of the incompetent or disaffected Council, and a special commission was granted by the King to "the Ministers Elders Provost and Bailies" as his justices in place of the civil authority "to quhom the execution of our actis of Parliament properlie pertains" since the latter had been remiss. This means that the Session is the watchdog over the magistrate and has displaced the council as the chief authority municipal. The minister was the real power (3)

(1) "And that they may mair francklie execut thair callingis the bailies present committis to thame power to execut therintil as thai have the occasioun May.30 1597

(2) May 27 1597.

(3) They received special power to "amerciate and poind" p.54

The joint system of police was very effective. Four elders two bailies and four officers searched every quarter and lifted penalties on the spot. The elders had a special purse for collecting the fines for swearing. The List of Nov. 24. 1598 the Kirk Session shows the town divided into quarters each governed by a bailie and three elders. The bailies who were lax in removing suspect persons were fined 20/. The Kirk's suggestions for the government of the Town were not repudiated. "The elders think meet that by advice of the bailies and Town Council a list be kept of all outgoers from from the gates and the time of their return" (p. 85) and it was they who decided in the first instance that the date of the wapinschaw May 18 1604 should be changed. Only the presence of the provost and bailies was necessary to allow the Session to exert almost the whole power of the Council. p. 133 with the consent of the Provost and Bailies they deprived a man of his fredome and libertie of the town for resetting an excommunicate and imposed in addition a fine of £10. The Burgh Court could have done no more. An entry on July 2nd 1613 p. 134 seems to indicate that in the popular mind there was confusion between Session and Council.

Thus in Elgin the situation would seem to be that the Provost and Bailies in combination with the Kirk Session as a rule formed the most important group of citizens who by annual elections perpetuated themselves and their families. The electorate therefore for the General Assembly would be the small group of elders who seldom numbered more than 16 and the equally small group of the Town Council both of which had a common personnel i.e. the magistrates. The practice would be to appoint a member of this joint personnel preferably a magistrate, thus sparing expense and commissioning a man conversant with both church and municipal business.

In Stirling at a very early date the Town Council (Jan. 1561) dealt with a case of slander against the "magistrates and elders", as if their authority was bound up together. Like Perth and Elgin the Session of the Town summoned the merchants under the Dean of Guild and the crafts under their deacons to take trial of their feuds before communion. In times of difference of policy between the ministry and the crafts or merchants, any interference of the kind would tend to be resented by the crafts who claimed to settle all such disputes amongst themselves. (Aug. 21. 1607) Joint action was fairly common. Several writs ran in the name of the
(1)
"counsall and sessioun". e.g. June 7th 1631.

(1) Maitland Miscellany. I.K.S. Records. 1597-1649

The system was well recognized that magistrates were usually elected members of the Kirk Session for the purpose of discipline. Baillie strenuously denied that any Church judicatory had the least right to "fine any creature so much as one groat," and although the acts of Parliament provide for "pecuniary mulcts" and corporal punishment the power of execution of these was ~~pnt~~ by Parliament into the hands of the inferior magistrates. "Ordinarily some of these civil persons are ruling elders and sit with the elderships so when the eldership have cognosed upon the scandal alone of criminal persons and have used their spiritual censures only to bring the party to repentance some of the ruling elders by virtue of their civil office or commission will impose a mulct or send to prison or stocks or banish out of the bounds of some little circuit." But the money and profits of such justice in almost every case went into the Kirk funds. There was in the minds of the common people very little difference and often in local records we find that the session forgot the difference and definitely imposed its penalties under the formula "the session fines". Mc Crie in his life of Knox Vol. I. p. 235 states as an almost invariable rule that some elders were chosen from the magistracy for this purpose.

(1) Quoted by Edgar in his "Old Church Life in Scotland".
-Church discipline p. 305

In the landward parishes the hereditary baron or his bailie fulfilled the office of execution, but he was almost always an elder as well. Where there was no competent magistrate the Sheriff had the power to appoint Session Bailies" but it was provided that they must be elders also (1) It was therefore a deliberate confusion of a spiritual and a civil duty. Had it not been for its jurisdiction which demanded this civil backing the Kirk Session might have been left in a position free and untrammelled as to its election to the General Assembly and so have been able to send representatives other than those who were simply members of the Council appointed in most cases at the Council's discretion. The Town Council should rightly have been quite extraneous to the electorate of an Ecclesiastical Convention. It became a special feature of the General Assembly's policy in later years to insist either upon the session bailie or the Magistrates being upon the eldership. The later session bailie was elected in the session and received a commission from the Sheriff. (2) but the civil authority in the XVIIIth century deprecated the continuance of the session bailie and the office lapsed

(1) Edgar. p. 307

1645

(2) G.A. 1648 recommends the act of Parliament for having magistrates in each congregation
Synod of Ayr and Glasgow passed similar ordinance 1700
(Edgar. p. 308)

The Records of St. Andrews Kirk Session 1559-1600 form an admirable study of the Kirk Session in full working order, but in some respects it was not altogether normal. In the first place the presence of a University made the circumstances of election unusual. St. Andrews also was one of the few sessions which still retained to the end of the century the custom of appointing the delegate to the assembly in its meeting. In most other towns the Council was the body who did so with or without the attendance of the session according to their constitution. The method of election deliberately laid down was one which aimed at including on the personnel of the ecclesiastical body a proportion of the two ruling forces in the Burgh. Thus in October 1st 1561 it was agreed in the court of the Superintendent of Fife (really the session of St. Andrews under a different name) and in the presence of the Provost Bailies and Council, the Rector and chief members of the University that henceforth the day of election of the session should be the second Friday after the election of the town council, presumably with the intention of including among the members the newly elected magistrates. The Rector gave in with advice of his council a list of six names two members from each college, to the Provost. The latter with the advice of the Town Council drew up a list of "sufficient persons" and handed both lists to the minister who was instructed to publish these names on the following Sunday. On the day of election

the Town Council and community of free burgesses and the Rector and members of the University including the regents made the formal choice in the Tolbooth. Except in open cases of unsuitability the nominations would be automatically ^{accepted}. The idea would seem to be equality for both Town and Gown. The result shows the election of 13 elders three of whom were Provosts of the colleges, and 8 deacons. Previously apparently the University had not been represented (lists for 1559 and 1560) In 1562 there were four university men Six citizens and two bailies, and eight deacons undefined as to status. David Spens who along with Pont had represented the Town in the 1560 Assembly had only the status of a Deacon when he did so. These names for some time remain constant with variations in designation as first one member and then the other attains the dignity of magistracy. The Mottos the Welwoods the Lawmonths the Coks and the Geddys apparently hold the chief place in Council as they do in Session. Deacons were just as important in session as the elders. After ten years the names are almost identical, six from the University and six from the town (p. 342) and Oct. 1571 (p. 350) and 1572 a decided proportion of "landward" representatives three in the eldership and three in the diaconate have been added. The oath which they gave on that occasion shows the comprehensive nature of the constitution and duties of the session (1) to remove and withstand all idolatry blasphemy and disorder. (2) to report

with impartiality all the misdemeanours of the parishioners to the minister or reader.(3) to swear secrecy until the final decree, and to divulge no more than is contained in that decree.(4) to execute all ordinances of the session and the General Assembly.(5) to permit none save elders and deacons to vote with the exception of the "teachers" within the congregation. Does that imply that every master in the university could vote if he so desired whether an elder or not? The proportion of the University representatives seems to become reduced normally to three, a Provost or Regent from every College, some who were at one time members of the university becoming prominent members of the Town Council.)

Mr. William Cok Bailie represented the Town almost continuously on the General Assembly. He was the Burgh representative just as often to the Parliament or Convention of Royal Burghs. Almost every commissioner sent to civil or ecclesiastical convention was a member of the inner ring of merchant burgesses who ruled town and session alike. e.g. Alex. Sibbald represented the town in the Convention of Estates September 1571 he was a member of the session on the list of October of that year. Thomas Wallace represented the Burgh in Assembly July 1569, and ⁱⁿ the Convention of Estates Nov. 1572, Thomas Welwod a permanent member of the Session was the civil delegate to the Parliament of 1578 at Stirling. In the absence of the Town Council Records such similarities are the only statistics we can draw upon. A typical list is Rutherford, Provost of

St. Salvators, Wilkie Principal of St. Leonards, John Robertson Regent in the New College, Thomas Balfour, John Martin and William Cok, Bailies, George Brown John Motte James Robertson Martin Geddy, John Bonkill, Charles Guthrie and two landward elders. Deacons were usually about 8 in number ^{with} and three or four landward ones. The Provost of St. Andrews who was almost always a Learmonth was not mentioned during this period. The Learmonth morality occupied the session frequently.

The lists of council continue to show the repetition of family names, and the kirk session nominating their successors simply perpetuated themselves. Seldom was ~~there~~ anyone to object to the choice although a day was formally appointed "to all maner of personis halveing voit within this citee" to do so.

The effect of the Black Acts is illustrated in the proceedings of the Session. Archbishop Adamson appeared in the session and declared that by these acts it was no part of the King's desire to prohibit the conventions of elders and deacons "bot onlie to inhibeit the new erectit Prisbittries". The Session got from him a formal warrant to carry on their sessions (June) but not long after the question was raised whether it would be better to remit the offenders to the Bishop for punishment. It was carried by a majority that the old

method of discipline should be adhered to. (19th August)

The election of 1584-85 returned as usual three Professors and the usual quota of nine citizens who by this time can be traced by their designations to have been magistrates at one time or another. In 1586 all four bailies were members but this may be explained by the fact that the Plague had visited St. Andrews and in the unsettled state of the city the Session was reinforced by the whole magistracy. The lists from 1586 to 1590-91 show an annual recurrence of the same people in session. They were in theory now to be elected for life according to the **Second Book of Discipline** although they might relieve each other. These in St. Andrews kept themselves in office permanently, and if a few names are absent one year it may be presumed that they are relieving each other to the extent of dividing their activities between Council and Session. (see lists II. pp. 574, 607, 624, 650, 694, In January 1591 a new method was adopted. It was agreed by advice of the Provost and Town Council that there should be three of the University i.e. Wilkie, Martin, and Robertson, three from the landward parish, q.e. Duddingston of Kincappill, Ramsay of Langraw, Wood of Stravithie, appointed to meet with the the Town Council to elect elders and deacons. The result was a slight change in personnel and the inclusion of Andrew Melville. The "day of objection" was by this time a pure formality. The local revolution of 1593 materially affected

the personnel of the session, which illustrates how closely the two bodies were related. November 24th 1593 was appointed for the election, "bot becaus the contentioun is presentlie in Edinburgh for the magistrace nocht yit decidit the sessioun continues the electioun to this day aucht dayis quhill the magistrates be present with the sessioun. The quarrel was at the instance of the old Provost and Bailies represented by Learmonth of Dairsie Michael Balfour Alex. Winchester John Forrett of Fingask who claimed the right of the Old Council to elect the New and complained against the rascal multitude who had appointed their own leaders. The new leaders were William Murray David Auchmowtie William Moffat and John Smith, and the Court decision approved the new election. Accordingly in the election of elders and deacons which took place as soon as the decision was Known, it was agreed as a compromise that "the ane half removit sall chuis the other half thair of quhilkis ar also chosen and dividit as followis. Elders 6 of the University, 22 town elders, 11 landward, Deacons 12 town and 8 landward. This includes the new magistrates the Dean of Guild the Town Treasurer and several of the deacons are promoted to the rank of elder. We should like to think that the diaconate in the Session held a proportion of the crafts or their deacons but in the absence of data nothing is

①
The Deacon The Hammerman
was certainly mentioned

to
 be inferred. (By the next year the exiled magistrates have found their way back to the session).

The new magistrates council and session divide the town into two parts and apportion districts to the various elders and bailies.

A still different system obtained in 1595. The city was now definitely in two districts one ruled over by Black, (1) the other by Wallace, but the elders were elected jointly and their district apportioned later. On 15th October the Session met and no objections having been given in by "parte is haif and interes", proceeded to election.

Andrew Melville and the other members of the University on the eldership were removed and the rest voted upon them as to their retention or otherwise. When this was done they returned to their places and joined in the voting upon the others who were sent out in groups of 4 and 5. The names of those retained were then announced and "the session thereafter by vote elected elders and deacons to the vacant places. There were 15 elders in the South Parish and 13 in the North and 8 and 9 deacons respectively. Have these 28 elders any relation to the numbers of the Town Council which in the ^{report of the} sett of 1708 were stated to be 29 persons (the magistrates Dean of Guild Treasurer 14 guild brethren, the Deacon Convener and 7 craft deacons" (2)

(1) K.S. Register. p. 801

(2) This is an interesting point but it is sufficient to show that in St. Andrews the Session if not identical with the council at least had a large joint personnel

The duties of the Session recapitulated in October 1595 show that the deacon had not lost his status in St. Andrews as the rulings of the Book of Discipline had implied.

He still co-operates with the elder in taking trial of faults and his activities are by no means limited to looking after the funds of the Kirk. (pp 804-805)

And to set the system in full working order the acts, "maid of auld be advise of the Provost bailly his counsell ministry and sessioun" were formally published. (1)

There was a general tightening of the two jurisdictions so that decisions made in the burgh court might be notified to the Kirk Session in case of "sklander" (p. 814) but there is evidence of the split in the Session between the Russell

(1) These acts are interesting as showing how local acts supplemented the Acts of Parliament.

- (a) Absence from church to incur penalties of act of Parliament. Absence from the weekday sermon-fine 6/8 to the poor box (local act)
- (b) a similar enactment for Booth doors being open on Sunday and week day sermon
- (c) Keeping of Yule (A.P.S.)
- (d) Blasphemy drunkenness slander etc fined first offence 10/ second, 16/ third banished. These fines seemed to have been shared between Town and Kirk for general public works.
- (e) Desecration of the Kirk yard 8/ Masters responsible for their "familie".
- (f) On every sermon day two elders one deacon and "ane officiar at command of ane baillye" to perambulate the streets
- (g) Fine of 6d on those who did not attend burials in their quarter etc.

faction and party headed by Murray who were more in sympathy with the ministerial claims. In 1596 Learmonth of Dairsie was again Provost but he was also a power in the shire and if he did not represent the burgh in Assembly as often as inferior magistrates it was because he was being returned as a lay commissioner from the Presbytery.

In 1598 the session simply continued themselves in office although they appointed a formal day for hearing the objections of "all parties haif and interes". Whether it was owing to the effects of the local revolution the Kirk Session during the period 1593 - 1596 shows in the Deaconry a representative number of craftsmen who were mainly responsible during this period of municipal history in most Scottish burghs for these riots in favour of a more popular government. The deacon of the hammermen was included in the diaconate of 1593-4 under that designation and wrights baxters and chirurgeons are also mentioned. But the list of the deacons of the South parish for 1595-96 is rather remarkable. There are mentioned 15 names of which two were baxters, one a wricht, one a cooper, one a cutler, one a maltman, one a litster ^{one a flesher} and two were mariners. (1) Thus the crafts were well represented on the diaconate. If the deacons were cut off by their function from attendance upon the General Assembly, the crafts would thus also be excluded but nevertheless they would be able to exercise some kind of control over the church finances

(1) S.C.A. Kirk Session II p 788

But with the interference of the King in the affairs of the University and the consequent exclusion of masters from attendance on church courts this craft element seems to disappear also (only a maltman appears by designation in 1597-98⁽¹⁾) and the list shows 26 elders and 11 deacons with the Learmonth faction in the ruling positions.

A Learmonth sat as Provost, with his four bailies, Dean of Guild, and Treasurer, while the commissar of St. Andrews who had been a member since 1594 was placed in order of priority after the Provost himself. Past bailies like Cok, Russell Muffet Carstairs Balfour in spite of their troubles with the Kirk in the past were still prominent members in its courts, and continued to be so until the end of the century. The Kirk Session in St. Andrews therefore was in many ways simply another function of the Town Council or perhaps of its merchant members only. The crafts when mentioned at all appear only in the deaconate which by constitution was debarred from attendance on the Assembly. Whether they were disqualified from voting also it appears was left at the discretion of the individual Sessions. Commissioners sent by the session were always of these few ruling families nearly always a magistrate, both to Synod and to Assembly. Mutual acts of support between the Sessions and Council were in most cases enactments of the same group for enforcing their authority in their two spheres. The session under the influence of Melville expelled from its membership in 1593

(1) But the deacon convenor was also present and the system of control over funds by the crafts was recognized by his appointment 19 April 1598 as Kirkmaster.

those who had already been expelled from the membership of the Town Council. The New Council accordingly practically corresponded to the New Session. Learmonth complained that the majority of the Session who were prepared to sit as his judges had already borne arms against him in the civil dispute (1) and the session so composed attacked equally their opponents by their civil and ecclesiastical power(p.771) The ousted party complained that they were debarred from pursuing their righteous civil action against the Council by the fear of the sentence of excommunication which might be pronounced by the session which was practically the same in personnel. (2) They were however brought to admit the injustice of their accusation. Thus in its relation to the Town Council the Kirk Session of St.Andrews varied its personnel as the Council varied.If most towns elected their representatives through their Civil Council St.Andrews was no real exception to the rule for the session was to all intents and purposes, ~~The~~ Town Council. If the majority of other councils made little pretence of calling in the co-operation of their sessions as by act their were supposed to do,the session of St.Andrews made no pretence of inviting the co-operation of their Council. There was no necessity for the two were practically identical.

That this must have been fairly common is

(1) ST.Andrews Kirk Session Register.p.766

1778 (2)Because they had broken their oath of obedience to the new council by pursuing an action against them before the lords of session,the K.S.convicted them of perjury,Watson one of the old Council,said it was a threat of excommunication

is fairly well authenticated from the fact that the same sort of thing persisted in Montrose a hundred years later. The ruling families the Betties the Tailyeours the Rennolds the Geardins ruled the Session as they did the Council throughout the Civil War the Restoration period and through the Revolution until a similar local Revolution deprived them of power in both bodies alike. It was then found that they had been using not only the Common Good for their own advantage but that the funds of the session were in so depleted a state that it was several years before the new Session could disentangle the various debts and deficiencies; and the blanks in the register can be traced to these men who destroyed the evidences of the tacks at purely nominal rates which they set to each other. The crafts in Montrose but for a period during the rule of Cromwell never made their power felt and thus their restraining power in the management of the public purse was a negligible quantity. The list as late as 1687 was composed of the existing magistrates the past magistrates and two members of the Council and the Town Clerk, but of the 48 deacons only 9 were craftsmen. This group exchanged among themselves the Municipal Offices and Ecclesiastical functions for many years, even after the return of the General Assembly, until ejected in 1696. The Town Council once more was simply another name for the Kirk Session for the large diaconate had no influence either in the representative system or in the control of funds.

Our conclusion as to the electorate in the Burghs must be that it was largely the same as that which returned the representation to Parliament or Convention of Burghs. The merchant class held the field here as in civil affairs although the degree would vary according to the individual position of the crafts and commons in the local burghal "sett". One thing is clear that the Kirk Organization was so inter: ; connected with the Council that its composition varied as the Council's. The idea of a representative Church body drawn from all classes and exercising a strong influence towards democratic ideals on the principle of the equality of all the godly is not borne out by the facts. The kirk in fact did not on the whole encourage "the inclusion of the "baser sort" in its councils, just as for them the "congregation" in the land: ward parishes meant for them the lairds who could compel their feudal dependents to do the Kirk's bidding.

The representatives of Burghs therefore in the General Assembly were no more representative of the "commons" than the members of Parliament or Convention. What might have been the result had the Kirk definitely allied itself with the crafts whose claims were the claims of a democratic party we can only speculate.

The Kirk and the Crafts

If the Kirk had been the thoroughly democratic institution that its champions have claimed it to be, there ought to have been within its constitution a place for the **poor commons** who were without influence in the Civil Government. The landless in the country **districts alike** in Civil and ecclesiastical government had little voice. In the landward parishes the poor tenants and labourers while they might be the subject of beneficent legislation had little influence in Kirk Session where their Lords predominated and none in the elections of the shires where the 40/ freehold restricted the electorate to a comparatively small number. The commons in the Burghs who corresponded to the "working classes" of today were the craftsmen whose local struggles for representation on the Town Councils had met with varying success. In some towns such as Montrose they had up till the XVIIth Century never been able to gain farther representation than the statutory two laid down in 1552, although the "sett" of each Burgh varied according to the strength and wealth of the crafts. Now since it has been shown that Town Council and Session were in many cases almost identical, the influence of the crafts in Kirk Government would vary according to their position in the civil government. In the large diocese of the Kirk Session there was opportunity for popular representation but by the second book of discipline the diocese was excluded from attendance at Assembly Synod and Presbytery. The deacon who was the lowest order in the hierarchy of Kirk Government just as the craftsman was the lowest order of citizen, was thus disfranchised.

Relation between Kirk and Craft ought to have been fairly close. In the pre-Reformation Church the crafts had been an important factor. Church Pageants according to the general view had been the origin of the craft organization and in Aberdeen the first burghess fee took the form of a donation to the Church in the form of wax candles. In a different sense many years later the Kirk Session of Perth ordained every deacon of craft to put a 2d candle in his pew for lighting the Kirk (Perth Recs. Dec. 5th 1593)

Since the pageants, fasts, May Day plays and festivals had been an integral part of craft organization it is not surprising to find that the Reformers had the greatest difficulty in overcoming the conservatism of the Trades in their attempts to put down all such idolatry. The Magistrates in the majority of cases almost always burgesses of Guild regarded these convocations of crafts with suspicion, and the Kirk efforts to suppress Saints Days accordingly coincided with the Magistrates to suppress popular agitations towards a more representative municipal government.

All this therefore tended towards an identity of the interests of Kirk Session and Town Council. Not only the rabble prentices but the leading burgesses of trade adhered obstinately to their old "Popish customs". On May 18th 1565 in Aberdeen an instance of the joint campaign occurs when in the Burgh Court 5 leading craftsmen (who may have been deacons of craft) were ordered to appear in Church making public penitence for going in procession composed entirely of crafts, headed by a minstrel, upon the May Day preceding. At the same time it was decreed that they should lose their freedom and all exercise of their craft, and the opportunity was seized to enact that for seven years after, no craftsman should be admitted to freedom who was not a freeman's son. As late as 1588 it was complained that in Dumfries superstitious days were kept by order of the Craft Deacons (B.U.K.p.716) while the registers of Perth contain innumerable instances of the breach of Sabbath ordinances not by individual members of the craft but by wholesale disobedience with the warrant of the deacon. (Perth April 1588 the whole corporation of the fleshers was rebuked for breach of the Sabbath)

The Reformation shook the whole system of crafts in every country where Protestantism penetrated. In Scotland the effects were not so far reaching as they were in England where the whole of the property of the crafts devoted to religious purposes was appropriated by the Crown. In Scotland the chief offenders in this respect were the Magistrates and Council who adopted the new tenets as much for pecuniary gain as for religious motives. The Aberdeen crafts pursued for their plate and rich hangings altar cloths etc, before the Privy Council against the few families who for three or four generations had elected themselves magistrates from father to son. The numerous examples of disorganization in the burghs in the decade after the Reformation to be found in the cases brought before the Privy Council indicate the unrest among the crafts, their difficulty in reconciling the new vaunted theories of democracy with the subversive enactments of the Council - Kirk Sessions (P.C.R.II.p.582 Cupar Oct. 1567) When the committee of Council for the stipends of ministers in burghs allocated to the Burghs "the annuallis of alterages chapellaneries and obittis" were the crafts consulted who more than others had supported altars and their chaplains for each particular trade.

The obvious compromise was to have the deacons of crafts as members of the Kirk Session, where their authority over their constituents would be used to obtain obedience for Kirk decrees which the Bailies might find more difficult to secure. There is evidence as we have seen of the appearance of these craftsmen in Session especially in the case of St. Andrews but in most burghs the narrow ring of Merchant Councillors who were also members of the Session compelled their relegation to the comparatively unimportant position of the diaconate where in most cases they had no opportunity of doing anything save to execute Kirk decrees and to act as a kind of police force over the crafts.

Whether they were members of the Session or not the deacons were used by the Kirk to enforce its authority. Inhibition was made to the "decanis of the cordinars vobstars telzers and baxters to remoif all superstition and occasiounther of in the keeping of ony holy day or ony wther festuall quhilk wes usit of auld tyme befor bot to keep only the Sabet day.. in preiching and prayeris"(1) When Yule was kept in spite of this the Session expected the Deacons of Crafts to punish the offenders(2) On this occasion the deacons were cited not only before the Kirk but before the Council and purged themselves of any instigation or concurrence in the disobedience of the Trades(3) In Perth March 22nd 1587 the Kirk Session ordained each deacon of craft to convene his brethren while the Dean of Guild convened the Merchants to insist upon both crafts and merchants attending the weekday sermon. In cases of disobedience the Dean and the Deacons were to collect the fines for the poor. Whether this implied the Poor supported by the Kirk or the Poor of the individual crafts is not clear. In Stirling (August 24 1607) the deacons of crafts were appointed by the Session to convey their crafts for the purpose of reconciling all feuds. Whether the Session could have taken up this attitude if the deacons had not been ardent supporters of Kirk local policy is not clear, for only a few years later we find the crafts through their deacons resolutely refusing to pay the 8 bolls of meal which they had been accustomed to pay towards the ministers stipend. (Stirling Recs. p. 141) December 1615)

But although conservative the crafts were not inimical to the new church which in theory had begun well with its schemes for the betterment of the poor labourer. In many towns they voluntarily obliged themselves to attend the weekday sermon under fixed penalties (Aberdeen 2/ for a burgess and 12d for a craftsman) but the lower ranks of the crafts persisted in regarding sermon day as a holiday until through the instrumentality of the Kirk Monday became the statutory pastyme day (1598)

The younger members of the crafts were responsible for a great deal of the lawlessness in the burghs. A particularly (5) notorious riot which had led to the murder of one prentice and the execution of another, induced joint action on the part of Session and Council in the belief that these things happened owing to the over great liberty of servants and prentices and the waning authority of their masters. The result was a summons to all master craftsmen to appear before the Magistrates and Session with their servants and dependants. The servants were sharply rebuked and charged to attend church with their masters under fine of 3/4, and "punishment according to the laws of the realm and the discipline of the Kirk" for any other disorders or rebellion against their masters. This they swore to observe

(1) Aberdeen Recs. (Kirk Session. p. 16) 16th Feb. 1574

(2) 10th Jan. 1576 ibid. p. 21 (3) Aberdeen Council recs. p. 25

(4) Bayne. Incorporated Trades. p. 68. 16th April 1599.

(5) K.S. Recs. of Aberdeen. p. 36 et seq. 28th August 1604

while their masters were solemnly admonished to delate any insubordination or fault to the Session. By what right did the Kirk Session thus interfere in the discipline of the crafts and the jurisdiction of the deacons. It is explicable if the deacons of the crafts were themselves members of the Session, otherwise it is difficult to see why they did not make protest against any outside body interfering in matters concerning the relationship between master and man which was one of the functions of the deacon of craft in which the dispute occurred.

As in the Popish times each craft had its own altar and chaplain whom its supported, so in the Post Reformation Church each craft had its own loft. Each Deacon Court gradually followed up the acts of Town Council by acts compelling the attendance at church of all members of the Kirk under fine. How were matters arranged when Kirk Session might exact a fine (In spite of the myth that no ecclesiastical court could do so fining by Session was a well recognized practice for the Town Council sometimes exacted its own fine apart from that which in theory it imposed for the benefit of the Kirk and except in fixed cases the Kirk fine was seldom imposed through the civil arm), when Town Council had similar penalties and when the internal organization of the craft demanded a third unlaw for the benefit of the poor of the craft. The Session was apparently sure of its ground for in 1602 Nov. 28th it directly forbade baxters to bake upon the Sabbath under the "pain of an unlaw to be exactit without favor". There was no mention of the intervention of the deacon of the baxters who ought to have been consulted if the fine was to be imposed by him. (Kirk Session Aberdeen p. 24. A similar situation arose with the baxters of the Canongate in the Edinburgh Presbytery)

The Deacon Jurisdiction and that of the Session were curiously confused but instances of conflict were rare. In 1634 the Deacon Court of the Baxters of Aberdeen ordered the compulsory attendance of all the craft at Sabbath sermon under penalty of 6/. Servants or prentices found playing on the links were fined 4/ the proceeds being given to the poor of the craft. Others playing at pastimes on the Sabbath were to be fined 6/8 and to be corporally punished "or otherwise report it to the Session that they may tak ordour therewith as appertenis". Was therefore the Session a kind of court of appeal? How was this consistent with the fact that the deacon court was supreme in all cases over its members save for "bluid and Blae". Under what circumstances did the deacon waive his right? The question would solve itself if the deacon were himself a member of the Kirk Session.

The Hammermen of Aberdeen had similar statutes many of them identical with those of the Session. Slander bitter: speaking nichtwalking, drinking in taverns after 10 p.m. were

(1) Bayne. Chapter VII. The Baker Trade.

(2) ibid. p. 243.

offences equally censurable by Kirk Session and Craft Court. Previous to the Reformation all such fines went to the support of the craft altar in the parish Kirk. Did the Reformed Kirk expect that it would benefit in the same way. The Wrights and Coopers of Aberdeen sent visitors of the craft through the town to see that the acts for Sabbath observance were kept reporting disobedients to the Deacon Convener and Craft Deacon who was instructed to take order with them "by and attour t^hat what censure the Kirk Session shall put upon them". The Craft could fine to the extent of $\frac{3}{4}$ which was also the sum fixed by the Session. Could both exact their penalties? There is a suggestion that some craftsmen had been deserting the deacon court hoping to obtain better terms from the Kirk Session for the wrights decreed that no "master servant or apprentice should gang before judge spiritual or temporal with no wrong nor injurie except blood and blae whatever, before the deacon and masters of the craft", under penalty of fine at the craft's discretion.

For working at their craft on Sundays the shoe-makers confiscated the shoes which were made, and the master of the household was accountable to the deacon court for the fines which he exacted from his servants for Sabbath breaking and non attendance at Kirk. These penalties he was entitled to deduct from their wages. This again was "by and attour" what the Kirk imposed (Bayne p. 277) *hain*

According as the craft was great or humble so the voluntary fines its imposed were variable just as the Kirk had graduated fines for "quality". The weavers of Aberdeen fined non attendance by the large unlaw of $\frac{30}{4}$ and were very careful to see their rules of precedence observed in Church. Breach of these rules was heavily fined and the money went to the common fund of their own craft and for the support of decayed craftsmen

Glasgow had settled its problems by 1600 when it was arranged that on the deacons of the crafts giving information of any remissness in Kirk attendance of their members, half the fine was to go to the craft and half to the Kirk. (1) but this rule was by no means universal.

If the Dean of Guild, the Town Council and the Deacons of crafts had exercised to the full their jurisdictions, little would have been left for the Session to do. As it was there was considerable overlapping of jurisdiction. The craft was apparently more ready to consider the cases of the poorer members than the Session which in many burghs was simply another name for the Town Council and as the diaconate in many sessions was excluded (2) from exercising discipline the "democratic tail" of the diaconate may have had difficulty in protecting the rights of poor craftsmen. In Perth a poor dyer warder for slandering the Dean of Guild and the minister said that "the minister had no pity for a poor man" (Oct. 3. 1604)

(1) G. S. Tyack. "Kirk Discipline" in Bygone Church Life edited by W. A. Andrews. p. 128

(2) By the constitution of the second Book of Discipline they were excluded but the practice was not universal. In St. Andrews they still sat and voted.

Bayne states that ~~almost~~ all offences including the usual immoralities with which the Session dealt were within the jurisdiction of the Deacon of Craft. Not only was he cognizant of offences as a craftsman but in matters of general citizenship, drunkenness, breach of the peace assault...with the two exceptions blood and debt. ~~excepted~~. Fines were seldom necessary, for the threat of loss of trading privilege and freedom was sufficient to bring the offender to submission. If all the fines for punishable offences had been exacted the revenues of the Kirk for its own poor would have suffered for the craft fine would almost certainly have been paid before the claims of the Kirk were considered. As it was the crafts during the XVIIth century tried to break down the monopoly which had been erected by the arrangement between Council and Session for the use of the mortcloth for which a standard charge was made the proceeds going to the support of the poor. The deacons of crafts insisted that the charges were far too great for the poorer craftsmen and stated that in future they were to use a mortcloth which should be hired out to members of their own craft at much smaller fees.

- (1) Subsequently a compromise was arranged and the fees were reduced (1649) Much later in Montrose the Guildry was the offender having procured a new mortcloth "by which they will break that branch of the poor's revenue so that our funds will not be able to pay the Pension Roll" (2)

Although at the beginning of the Reformation ~~era~~ the conservatism of the crafts had been a source of disturbance to the Kirk their ultimate allegiance was fairly well assured although in the Capital their attitude to the policy of the Kirk was very uncertain. Having least to lose they were most easily influenced by pulpit eloquence but on occasion their loyalty urged them to demonstrations against the ministerial pretensions. e.g. When the ministers tried to change the Monday market the conservatism of the crafts brought about a riot, and in the affair of 1596 the crafts rallied to the King. (3)

The Kirk had an opportunity which it neglected of making a strong party among the commons but it preferred the allegiance of the burgess of guild and the laird rather than the "unlornit sort" whose criticisms it would not tolerate. Cromwell seized the chance which the Kirk might have used. By widening the electorate for the Council he gave expression to a better democracy than the Kirk had ever proposed. For General Assembly and Convention of Burghs had combined to concentrate power in the Guild Burgess group at the expense of the political and religious influence of the poor craft craftsman to the expression of whose views on Kirk and State the Church Courts were barred in the same proportion as Council Parliament or Convention.

(1) Bayne. p. 70 (2) Montrose MS. Kirk Session Recs. Aug. 25 1715.

(3) They even attacked the "minister's nest" of Edinburgh on one occasion

PART II.

PARALLELS BETWEEN ASSEMBLY AND PARLIAMENT.

I. Coincidence of Meeting.

II. Committees (a) Bills and Questions.

(b) The Privy Conference.

III. Voting.

PARLIAMENT AND ASSEMBLY

The Relation of their Dates of Meeting, and the question of summoning Extraordinary Assemblies

From the beginning the Kirk seems to have assumed that it had the power to summon its own meetings at its own discretion, and the custom was that in its final session the General Assembly appointed the date to which its next convocation should be warned.

Some arrangement of which no absolute record exists but probably made about the year 1560 empowered Knox to summon Assemblies pro re nata or to alter the date of meeting at will. In the Assembly of 25 December 1563 Knox asked ratification and definition of this enactment and various Lairds Superintendents and ministers testified to the authenticity of his commission "to advertise the brethren to convene at what tyme any member of the Kirk should chance to be troubled and that for counsell to be had". (1)

Once more in June 1565 (2) the Assembly appointed Knox to receive answers to Articles presented to the Queen, to inform the Superintendents of the decisions arrived at, and "to advertise the faithful of things necessar that shall happen betwixt this and the next General Assemblie" Knox in fact held all the

(1) B.U.K.p.38

(2) B.U.K.p.64

powers later granted to the Presbytery of Edinburgh and the various Commissions of Assembly.

After the death of Knox it was found that these powers could not be suffered to lapse especially in view of the fact that the Kirk must keep in touch with Parliament's activities, particularly when alteration of the Kirk Polity came under review. Therefore in the last session of the 1574 (August) Assembly the duty was delegated to three persons, all in Lothian i.e. Spottiswoode the Superintendent of Lothian, James Lowson, Minister of Edinburgh, and David Lindsay, Minister of Leith.

"Forsameikle as it is necessar, in case of the Assembly of the Estates of the Realme or Parliament, that the Kirk be resolved in such things as they have to propone to the same which necessarily requires a certain space of before: Therefore the brethren hes thocht good in case of any Parliament to be haldin or any uther weghtie cause requyre and necessarlie the presence of the body of this haill Assemblie, That the Superintendant of Louthiane Mr James Lowson Minister of Edinburgh, Mr David Lindesay Minister of Leith, make lauffull premonitioun and advert: isement to thair brether to be present upon sick competent space befor as they shall think needfull; quhilk Conventioun of before salbe recountit for ane Assembly" (B.U.K.p.313 X

Similarly in March 1575 when the General Assembly was in great hope of a Parliament which should take decisive steps in the establishing of the New Polity (for consideration of which the Convention of Estates then sitting had appointed a committee (1) powers were given to the Ministers of Leith and Edinburgh to give advertisement to Bishops, Superintendents and Commissioners of Provinces eight days before the Parliament met so that they in turn might warn the rest of the brethren to be present. (In point of fact there is no record of Parliament till 1578) For ordinary meetings the advertisement or reminder of the last moderator seems to have been all that was necessary. It is only for these particular meetings in relation to Parliament that special organization seems to have been requisite.

(1) A.P.S.IIIp.89

(2) B.U.K.p.330 "Forsamikle as there is expectation had of a Parliament to be shortly whereunto sundry things are to be proponed be the Kirk which of before would be ripely resolved be common judgement and opinion of the whole brethren. It is thought meitt and expedient be uniform resolution of the haill brethren that the ministers of Edinburgh and Leith give warning and advertisement to the Bishops Superintendents and Commissioners of Countreyis aught dayis before the Parliament to the effect that they may warne the rest of thair brethren to be present, to consult and put into deliberation sick things as salbe thought aftir good advyse to be proponit to Parliament. Which Convention salbe comptit for ane Assemblie."

Once more in April 1576 while they were still busily preparing the Polity ,and in expectation of a Parliament which might sanction it,they fixed a provisional date,October 24th,for their next meeting . But this was only to be adhered to if no Parliament were summoned.If however the Estates did intervene,the ministers of Edinburgh were to intimate the date thereof to the Bishops Superintendents and Visitors of Provinces,"that the Kirk may be conveyit four dayis befor the said Parliament,and that the Barrones and gentlemen be exhortit to be present with the Commissioners appointit in the Provincial Assemblies" (1) It seems to have become normal that there should be an extraordinary Assembly a few days before any Parliament that might "hold",and since the ministry of the Capital were first acquainted with any decrees of the Court on this score it was naturally inferred that they should give due warning to the rest of the Church. (2)

(1)B.U.K.p.363 Representation from Presbytery has not yet become fixed.

(2)B.U.K.p.411 "The Conventioun nixt appointit at Eden: burgh the 7 Julij (1578) in case the Parliament already proclaimit hald ford: wart; utherwayes in case that the same hald any uther tyme betwixt and the 24 day of October nixt to come that the brether conveene in the place quhar it sal be haldin for the tyme 4 dayes befor the same".

The Parliament did actually hold in July 1578, yet rumours of "alterations" and news of a Convention of Estates on June 12th induced the leaders of the Kirk to summon the General Assembly to Stirling on 11th June. The Church convention however was so sparsely attended that little business was done, and the rarity of the meeting was ascribed to the too hasty summons incident upon the sudden change of plans of the Civil Authority. " In respect of the rarity of the Assembly, because the induction thereof at the last assembly depended upon the tyme of holding the Parliament which was prorogued and transferred, and the tyme was so short that the whole countrie could not be advertised." Therefore, though those who did come voted themselves a genuine assembly of the Church, after hearing reports they dissolved, appointing their next meeting at the accustomed time in October (24th) but with the proviso that should there be "ane Parliament betwixt and the said day the Assemblie to be quher the Parliament beis two dayis befor the same". (2)

P.C.R.iii.705

- (1) Parliament had been proclaimed for 10th July and the G.A. accordingly chose 7th July as its date (preceding note) On 2nd June it was decided to hold a Convention at Stirling on 12th June for the formal restoration of Morton. The Kirk therefore had only a week to summon its members to the new rendezvous.

- (2) B.U.K.p.417

of the 1605 Assembly, and the Parliamentary system of "continuation".

Once Presbyteries had been established ,the Assembly appointed its own **ordinary** meeting leaving the summoning of **extraordinary** conventions in the hands of the Edinburgh Eldership and the Ministers of the King's Household.

(1)
In 1582 the Assembly of October transferred the full power to the Presbytery of Edinburgh to summon conventions "upon some necessar occasion of sooner meeting."

(2)
The Assembly took its first step away from this independent attitude,when in its anxiety to placate the King after the return of the Lords , in 1586 it requested that permission might be had to hold assemblies once a year," and to understand quhat tyme his Majestie thinks meitt for holding the nixt convention".

(3)

The extraordinary Assembly of February 1587-88 under the shadow of the Armada,was almost certainly summoned at the instance of the Presbytery of Edinburgh in collaboration with the Moderator of the previous Assembly (Andrew Melville) but with the permission of King James.

(4)

(1)B.U.K.p.584

(2) ibid.p.606

(3) ibid. p.649

(4)ibid.p.703 For discussion of the problem of this Assembly and of the "Convention of the Wacriff"
see page *infra*

Once again in 1591 there was alteration not of date of meeting but in the place, and though the change was made at the demand of the King, it was the Presbytery of Edinburgh which had the ultimate responsibility. On the 8th of June the Presbytery registered its decision to comply with the King's request. "Anent the commissioun gevin at the last Generall Assemblie of the Kirk to the Presbitrie of Edr. to adverteis the brether of all the Presbytries of this realme to keep the Generall Assemblie quhen thai suld think good incais any weightie occasioun Intervenit, notwithstanding the Assemblie was appointit to be haldin at Aberdeen The brether efter gude advysement hes concludit that missives be direct throw all the parts of this realme ordaining thame to convene at Edr. the day of the Assemblie appointit for sick wechtie caussis as salbe lettin thame understand at meting" Some of the members when they did meet on July 2nd (1) 1591 doubted the validity of an assembly summoned after this manner but as they were in a minority their scruples were referred to the consideration of the Moderator's Assessors.

(2)

This Assembly of 1591 decreed that the next convention of the Kirk should be at Aberdeen 17th August 1592, "but in cace ane Parliament interveine; in the

(1) MSS Records Edinburgh Presbytery, under date 8th June 1591

(2) B.U.K.p.779

quhilk case the brethren being advertised therof be the Presbytrie of Edinburgh sall hold thair Assemblie quher the Parliament salbe for the tyme and conveyne two dayes before the same". The idea therefore persists that

(1)

whenever a Parliament meets, then also must an ordinary or extraordinary convention of the Church be held. The Capital Presbytery took its task so seriously that there must have been, in the unsettled state of Scotland at that time several false alarms. Thus in the Edinburgh Records on 21 September 1591 a curious entry was made. "According heirunto (i.e its Commission from the last Assembly) in respect thair is a parliament proclomit to be haldin at Edr. the xx day of November nixt, the presbitre hes ordanit letters to be direct to all the partis of this realme for conveyning of ane assemblie of the Kirk at Edr. the xviii day of November nixt." But of this Parliament nothing

(2)

is recorded, and as no further mention is made of any Assembly on that date it is to be inferred that these arrangements had to be cancelled.

Once again on 4th April the Presbytery had information of a Convention or Parliament appointed to meet on the xxth of the month, and sent for ~~confirmation~~ on the point to the King, but according to

(1) B.U.K.p.786

(2) Edin. MS Pres. Recs. 21 Sept. 1591

to Moysie the King purposely rode out in pursuit of
 Bothwell⁽¹⁾ to avoid this "Conventioun before the Parliament"
 so that it never really held any sessions at all and
 the Kirk's share in proceedings if it had any, was rendered
 nugatory. It was however eventually decided by King
 and Privy Council that both Convention and Parliament
should hold their meetings, the Convention on 24th May
 and the Parliament five or six days later. The Presbytery⁽²⁾
 was somewhat bewildered by these constant alterations, but
 at last on May 9th they resolved to ask the King to
 confirm the rumours as to the approaching Parliament.
 They sent Duncanson and Lyndsay "to enquire the day of
 the parliament that incals it had the brether out of all
 partis may be vrittin for to convene in a generall
 assemblee conforme to the commission granted be the last
 generall assemblee to the Presbytrie". These delegates⁽³⁾
 returned with the Royal assurance that the Parliament
 was fixed for May 24th, and accordingly with all possible
 diligence the Presbytery sent forth warnings to all
 the other "Elderships" to assemble in Edinburgh on the
 22nd of the month. And accordingly on 22nd May the

(1) Moysie Memoirs p.93

(2) *ibid.* p.94

(3) Edin. Pres. MSS. under date May 9th 1592

the momentous Assembly did hold its sittings which did not conclude until the Kirk representatives were satisfied that the Parliament had done what was expected of it. The Golden Act of Presbytery, passed by this Convention of Estates, while it definitely gave statutory recognition to the Discipline, yet deprived the Kirk in some measure of its right to summon its own Assemblies. It enacted that if the King or his Commissioner was present the right of fixing date and place of the next Convention of the Kirk lay with the Crown, and only in the case of the absence of both was the Church empowered to summon its own succeeding Assembly. The King was not long in putting this into practice, and it is clear that he was determined that whatever arrangements this last General Assembly had made before the publication of the Golden Act, he and he alone should have the final decision. In the Act of Council on the point 15th June 1592 he fixed the date and place (though both are left blank in the record) and the Assembly of the Kirk was henceforth to be intimated not through the medium of letters from the Presbytery of Edinburgh but by open publication at the market crosses of the head burghs. (1)

(1) P.C.R. IV. p. 759

The curious Convention of the ministry in November 1592 at a time when the Kirk had certainly some information of a Papist plot, is remarkable both for the attitude it took up towards civil affairs and the measures it inaugurated for national defence, and for its constitutional importance. The problem arises Who summoned this meeting and who composed the personnel and gave it authority to deal with the Civil Power on such important topics? As in the case of the "Convention of the Wacriff". Andrew Melville was the leading figure. A suggested solution might be that since the Assembly was bridled by the Act of Parliament, a less official meeting might deal almost equally well with the situation, a meeting corresponding to a Convention of Estates as a substitute for Parliament, or a Particular Convention of Burghs for a General Convention. In any case it is clear that the Presbytery of Edinburgh provided the leaders of the movement, who were appointed members of the Central Council in this time of national crisis. (1) They in fact practically violated the act of the recent Parliament, for hearing rumours to the effect that a Parliament or Convention of Estates was to meet in January they fixed the date of the next General Assembly for the 9th of that month, but with the proviso:- "and if the parliament be continued, that the Presbyterie of Edinburgh

(1) James Melville's Diary p.299 et seq.

give advertisement therof to the brethren that they make na waist travell". And a convention of the brethren accordingly did meet on that date, which virtually usurped the functions of the Convention of Estates which had been summoned for the 10th January 1593.

But these meetings of November and January were ranked as "Conventions of the Kirk" not as General Assemblies and though they obeyed the Golden Act to the letter they obviously were circumventing the spirit of it by using a different terminology. Thus they agreed to the King's demand in the Assembly of April 1593 and in the presence of his Commissioner fixed the date for their next meeting on the first Tuesday of May 1594. Their anxiety (1) to co-operate with the Parliament was so great however that they appointed a Commission representative of each Presbytery to wait upon it, with the full powers of an actual General Assembly.

(2)
The latter part of 1593 saw the system of Conventions instead of Assemblies in full working order, and they usually were arranged to coincide with Conventions of Estates or of the Nobility. They were summoned on one occasion on the initiative of the Synod of Fife, on others probably by the Central Council (3) and its agent, and they certainly acted in every way as

(1) B.U.K. p.8

(2) *ibid.* p.806

(3) For a detailed account see Chapter

a General Assembly might have done.

The only genuine Assembly however was that which met on 7th May 1594 according to the appointment made by Kirk and Royal Commissioner over a year before. In this Assembly the King once more reminded them of the necessity for obtaining his consent for any subsequent date of meeting, but the success of its Conventions induced the Assembly to take up a less dependent attitude, and while it agreed that with the advice of the Royal Representatives the next meeting should be in Montrose in June 1595, it added a provision which practically reinstated it in its old untrammelled position. " Provydit alwayes in cace it be found expedient pro re nata be the Presbitrie of Edinburgh to be sooner upon thair advertisement the samein to be prevenit".

(1)

The Watchtower of the Scottish Church was therefore restored to its prime position. Whatever Central Councils and Commissions might be appointed, it was the one permanent unit which might be relied upon to give information as to sudden alarms of Papist intrigues, or of hasty summons to Parliament or Convention of Estates. although the Commission of Assembly appointed at the same

(1) B.U.K.p.842

virtually took over most of its extraordinary powers. (1)
 This commission was allegedly on a representative basis, and its function particularly to deal with the Parliament, but probably the leaders were simply the chief men of the Edinburgh Presbytery. The presbytery was certainly chiefly responsible for the curious convention in February 1595, and that meeting of the Presbyteries on March 11th "for consulting upon sick articles to be proponit to the Estates as concernis the Kirk". (2)

This system of Commission was repeated in the Assembly of June 1595, and although the date of the next meeting was apparently fixed by joint arrangement between Crown and Kirk, this did not prevent the Presbytery of Edinburgh from urging a special convention of the Kirk to deal with the question of an expected Spanish invasion in November of that year. It was however in the name of the commission of Assembly that the summons for the Extraordinary Assembly of March 1596 was sent out.

(3)
 It is probable that since the King was anxious to have money and hoped that the General Assembly would help him, the Convention of the Kirk was called by arrangement between him and the Commission of Assembly.

-
- (1) One or two commissioners from every principal Presbytery to await upon the King no less for religion than for Crown and country.
 (2) There seems to be doubt as to whether this was a convention or merely a meeting of the Commission of Assembly.
 (3) See the letter of the Commission received by the Haddington Presbytery. (Pres. Recs. Feb. 25)

This Assembly in fact dealt with affairs which strictly belonged to the province of Parliament, and instead of attempting to coordinate its meetings with that body acted as an independent agent in organizing national defence in collaboration with Crown and Privy Council. A commission of Assembly was again appointed to "see to the dangers of the Kirk at all occasions" but a small central committee of three Edinburgh ministers ⁽¹⁾ had the ⁽²⁾ duty of attending upon Court with the implied function of giving warning to the general body in case of necessity. Although the King attempted to circumvent these plans by summoning only those ministers whom he desired to attend upon the Conventions of Estates or Nobility of May and August of that year, Andrew Melville insisted upon his right to come, but these commissions are not extant and it is not possible to say how far his position was justified. These meetings of the Commission are extremely difficult to disentangle from extraordinary conventions of the Kirk which only needed the King's consent to turn them into General Assemblies. In any case it is clear that even ⁽³⁾ for meetings of the Commission the Presbytery of Edinburgh with the central Committee had the final power of arrangement.

(1) C.V.p.438.

(2) Bruce, Lindsay, Balfour. and James Nicolson when he could be present.

(3) see. page.

The Convention of October 20th 1596 of Commissioners of the General Assembly and from diverse Synods was one of several anomolous meetings and virtually played the part (1) of an organized Opposition Party. The chief difference between such meetings and a General Assembly seems to lie in the fact that they were primarily conventions of the ministry only and that if Barons attended they almost certainly came without commission. This October Convention went farther than the rest, for having laid down a scheme of "intelligence" for informing all the professors of the wrongous court policy, and appointed a committee representative of the four principal divisions of the country, they authorized these in co-operation with the Edinburgh Presbytery, if they saw danger to increase, to appoint "A General Assembly of all the Ministry with a good number of the best affected noblemen barons and commissioners of Burghs". It was probably the Knowledge of this which (2) induced the king to insist that no General Assembly should be summoned without his consent and that no act be held lawful unless confirmed by him or his commissioner on the analogy of Parliamentary procedure. It seems scarcely likely that

(1) C.V.p.443; Edr.Pres.Recs. Oct.5th. 1596

(2) C.V.p.447; Sp.III.p.10 "These conventions were by a new name called the council of the Kirk.

it was the small central committee alone which was responsible for the supremely important negotiations with the Crown and Council. The main Commission of Assembly at least must have been recalled when matters looked dangerous and the important case of Black's declinator focussed attention. Although they definitely stated that their commission included the presentation of articles to King and Council the Crown expressly denied that any such commission had been given in the Assembly of March. There is no doubt that by 8th December at least the meeting of commissioners had become a general convention of the Kirk. They were even prepared to go so far as to
 (1) summon on their own account a formal General Assembly for the second Tuesday of January. Although all such kirk
 (2) conventions were prohibited by the Proclamation of 24th November, the Commissioners no doubt intended to prosecute their plan of making the General Assembly the Supreme Court of Appeal, had not the King forestalled them by summoning both a Convention of Estates and a General Assembly to meet in Edinburgh on 5th February. It was an attempt to co-ordinate the two parties in a joint Parliament-Assembly which should settle all controversies without prejudicing the nominal independence of either.

(1) C.V.p.496.

(2) 22nd November.

The meeting of 17th December was virtually a return to the early mass meeting form of General Assembly, a convention of the Ministry reinforced by the Lords of the Opposition and it submitted articles in much the same manner as it would have done had it been an official Assembly. The disaster which followed upon its unconstitutional procedure provided the King with an opportunity for prohibiting this and other forms of church conventions, and for insisting that Edinburgh should no longer be the hotbed for the "seditious practices" of the ministry, and that the General Assembly alone summoned at his dictation should be the only method of negotiating in affairs affecting the whole Kirk.

James proceeded with his scheme of a joint civil ecclesiastical meeting in spite of requests to delay any action until the time fixed by the last Assembly i.e. for April, and sent round missives to the presbyteries intimating the convention in Perth on the last day of February, while at the same time submitting the vital points at issue which demanded definition, in the form of fifty five questions. This convention in spite of the efforts of the zealot minority did account itself a formal Assembly, but in its relations with the civil convention, although it protested for its liberty of private debate, it played a part very like that of a meeting of a separate estate. (see A.P.S. iv. p. 110)

The King thus found that by boldly summoning Convention and Assembly together the Lords of the Opposition who made the Kirk demands a political pretext were bridled.

The attempt of the minority to fence an Assembly on the prearranged date in April was a failure and the great majority of Presbyteries preferred the date arrived at by the King and Perth meeting i.e. May 10th. in Dundee. The King followed (out) the precedent and summoned a Convention of Estates to the same place on May 13th (1) The appointment of a new Commission of Assembly in the presence of the King, whose business was to consult with him on all Kirk affairs was the signal for the new system whereby by means of these Church leaders James was able to control the dates of the sittings of Assembly without appearing too arbitrary. Thus although this Assembly fixed its next meeting for May 1598, the commission of Assembly in consultation with the King altered it to the preceding March, and in its business emphasized the importance of the Parliament for settling difficulties and receiving complaints. This was of course all tending towards the inclusion of the Kirk in Parliament as the Ecclesiastical Estate ~~and~~ instead of permitting it to hold a rival national convention. The result was the resolution that it was

(1) A.P.S. iv. p. 118

"necessar and expedient for the weill of the Kirk that the ministrie as the thrid Estate of this realme in name of the Kirk have vote in Parliament". (B.U.K.p 945)

(1)

After this consummation and the gradual establishment of Bishops, with the concentration of all power in the hands of the Commission of Assembly the summoning of the General Assembly was almost entirely at the King's pleasure with nominal consent of the Commissioners. Under these circumstances it mattered little whether the Assembly met contemporaneously with the Parliament or not since the only accredited representatives which the Parliament recognized were the Commission of Assembly which was completely under the Royal influence.

From 1602 to 1606 opportunity was taken to prorogue the Assembly from time to time, and the efforts of the "godly" to break this control met only with disaster. No longer was there any question of the Assembly rivalling Parliament or the Civil Government. Finally in 1610 the Assembly itself formally recognized that the King had full power to summon its meetings and this dictum was ratified in the Parliament of 1612. Henceforth to 1618 the method followed was that of general summons to the Sheriffs and messengers who warned the Bishops and these in turn chose the commissioners in Synods. Those noblemen whose attendance the King desired, received probably particular missives from Chancery in the manner of a

Parliamentary summons. Thus the General Assembly once the Rival of Parliament had become merely a branch of the Civil Administration. The explanation almost certainly lay in the defection of the representative lay element.

THE RISE AND DEVELOPMENT OF THE PRIVY CONFERENCE.

1560-1618

The General Assembly in its procedure used the Parliamentary system as a model in several perfectly definite ways. Not the least of these was the close analogy which existed between the Parliamentary Committee known as the Lords of the Articles, and that inner group in the Ecclesiastical Convention, which centred round the Moderator as his Assessors and eventually was incorporated into the constitution as the "Privy Conference".

Both Committees concentrated in themselves the whole of the real power belonging to the institutions of which they were the kernels; with the Lords of the Articles the position had become quite formal and automatic, so that the main body of Parliament only was present on the first day of meeting, to elect their representatives on this committee, and again on the last day to approve their decisions—to which only on rare occasions was exception taken. In the case of the General Assembly the process of development was slow but nevertheless certain, and by 1610 their powers had so increased that a contemporary historian could say, "The Assemblies at that tyme...were but ciphers; the Privie Conference, chosen all of disaffected men concluded all; in the Assembly nothing but reading and voycing". (1) The function of Parliament had long been reduced to the same level.

How then did the private committee system, so fateful in the development of Scottish Institutions (where everything done in committee was automatically accepted by whole house almost without discussion) come to be factor in the Ecclesiastical Convention which claimed for itself free and liberal disputation on all points affecting the General Good. The nucleus of the whole system is to be found in the institution of the Moderator.

Except for the unofficial leadership of John Knox the Assemblies previous to that of December 1563 had no formal Moderators. It was then agreed upon "for avoyding confusion in reasoning that everie brother sould speak in his awin rowme". (2)

(1) Row; Historie, Additions p.479 (Maitland Club 1842)

(2) B.U.K. i, p.38

The Lords of Privy Council who were present agreed with the brethren of assembly in appointing John Willock, and the election of a Moderator was thus introduced as the first duty of subsequent assemblies, without interruption.

The earliest type of committee would seem to be the Committee for Bills and Questions which by preparing provisional answers on difficult points, probably suggested and provided a model for the later and more comprehensive Conference. From very early times the ordinary business of Assembly seems to have been delayed by all sorts of inquiries relating to doctrine, jurisdiction, discipline and Kirk Government. The abuse was noticed in December 1564(1) and in June 1565 a small committee of six ministers was nominated to convene apart to decide such questions reporting their verdict to the full Assembly. The Moderator (Willock) did not meet with them since their business was only with minor points, and was not concerned with the fundamental order of Government and appeals from lower courts with which the main body dealt.(2)

The same process came into operation in June 1566, five members again sitting apart at set times, and again not including the Moderator. The "Questions" and "Answers" were registered in the final session of Assembly though probably there was seldom any need for the main body to reverse the decisions of the Committee. Again in December 1566 the same custom was observed still excluding the Moderator, but with the notable addition of the Justice Clerk, making thus eight ministers and one layman. (3) The same kind of committee was present in June 1567 (4)

Some idea of a system modelling itself upon the Lords of the Articles would seem to be foreshadowed in this Assembly when each shire appointed representatives (laymen) to meet with delegates of the ministers to confer upon the affairs of the Church and prepare Articles for the consideration of the whole body of Nobility and Ministry present,

(1) B.U.K. p. 52

(2) *ibid.*, p. 60

(3) *ibid.*, p. 91

(4) *ibid.*, p. 97 Buchanan was Moderator but was not included in the seven members of the Committee.

which were subsequently signed according to Estates.(1)

Once more there is a hint of the analogy, in that "Convention of the Brethren" before the Assembly of December 1567, when from every province were nominated certain brethren to confer and reason "upon sick things as appeirandy should be necessar for setting fordwad the affairs of the Kirk without prejudice of the Generall Assembly".(2) In the Assembly itself a few days later we find an expansion of the powers of the customary Committee of questions. It included the Moderator, six other ministers and two important laymen, and its business included all negotiations between kirk and Parliament or Privy Council.(3)

But this formed no precedent for in the next General Assembly the Moderator was not included in the small Committee for Bills which was nominated in the second session, to read bills, write their answer according to their judgment on the back and report all to the Assembly.(4)

In February 1569, Knox, Craig and Row joined with the Moderator (Christeson) in "consulting upon the order of proceeding in actions to be treated in the Assembly"(5). The order they drew up was to be the permanent system in which Assembly business was to be dealt with. As business increased and arrangement under the different categories became more complicated than the Moderator could manage alone, it must have been this little committee which served as a precedent and prototype for the ultimate appointment of the Assessors.

The Committee of Questions still persisted and numbering on an average about seven members continued to be elected July 1570, March 1571 until pressure of business was relieved by referring many of the purely technical or local difficulties to the decision of the individual Synods(6) and only the more intricate came before the General Assembly thereafter, being particularly brought up for decision, by the Superintendents themselves. No questions from ordinary members were to be considered.

(1) B.U.K. p. 106

(2) *ibid.*, p. 111 But this had particular reference to measures taken in conjunction with a similar Parliamentary Committee preparing business for the Estates.

(3) *ibid.* p. 113

(4) *ibid.* p. 125 The Committees for Bills usually met in the early morning e.g. 6-8 a.m.

(5) *ibid.* p. 157

(6) *ibid.* p.

No further Committee of Bills was appointed until March 1572(1) when seven ministers were elected for the purpose among whom the Moderator was not included. After this it becomes a regular institution, and the questions which come under its cognizance are on wide general heads which amplify and explain the Book of Discipline while their decisions made in particular cases become deliberate precedents. In March 1574-5(2) the Committee was very small, consisting only of four clerics, who were ordained to meet in "the Ile of the Kirk at seven hours in the morning and at one afternoon". In August 1575 the Committee was composed of six ministers, in April 1576 of ten, in October of that year only of four (though a much larger commission dealt with questions relating to the New Polity)(3)

The General Assembly of April 1577 introduced the first formal expression of that system which came to be known as the Privy Conference. The Moderator whom they appointed i.e. Mr Alexander Arbuthnot Principal of Aberdeen, had not been present at the previous Assembly and was therefore "not forsein of the things done therin"(4). Accordingly at his request the Kirk appointed assessors to "concurre with him the morne at seven houres in the morning in the Nether Tolbuith to conferr and advyse with him upon sick things as salbe thoght good to be handlit in the Assemblie". These assessors were seven in number,

(1) B.U.K. p.239

(2) ibid., p.319

(3) ibid. pp.337; 358; 372-3

(4) ibid. p.383; Calderwood III p378; Row p.350

NOTE :

Petrie (p.390) has an illuminating note on this original institution of the Privy Conference which is significant in the light of its subsequent development. He says:-In the first particulare a litlee thing was begun for a personall use and thereafter was continued and turned into a common evill. Those who were appointed to informe the Moderator at that time in the Assemblies following were chosen under the name of the Privy Conference: and power was given unto them to conferre with the Moderator upon the purposes to be treated in the Assembly and to form the acts ,

(contd)

and consisted of the chief leaders of the Kirk all of them at one time or another Moderators of Assembly themselves. (1) Their business was to prepare the order of business which the main body was to consider, and as the custom developed they could even decide which motions might be altogether suppressed and not appear at all in the agenda. (cf the Articles) *Rail p 373*

Obviously the first experiment had been eminently successful, for in the next Assembly, immediately after the election of the Moderator, David Lindsay, it was agreed that "because of greit confusioun heirtofor in Assemblies quilk fell out be casting in of purposes unforsein afoir, and be the proponers therof, it was thocht meit dureing this Assemblie that certain brether sould conferre with the Moderatour upon matters to be intreatit on at this conventioun viz. Mrs John Row Alexander Arbuthnot, Andro Melville, William Christeson James Lowson, Robert Pont, Andro Hay, John Duncanson, and the brethren to convene with the Moderator at 8 hours in the morning and half hour to two in the afternoon during the Assembly; and sicklyke it is thought good that the Acts made in the Assembly be considerit be the said brether/joynit to the Moderator and thereafter red in opin Assembly. (2)

(1) i.e. The Laird of Dun, Lowson, minister of Edinburgh Pont (St. Cuthberts); Lindsay (Leith), Andrew Hay (Commissioner of Clydesdale); Craig (Aberdeen) Andrew Melville.

(2) B.U.K. 592; C. III. p. 385 gives only six.

NOTE CONTINUED

before they were read in the Assembly. This was like unto that which in the Council of Trent was called the Congregation. Within some years all matters were debated and concluded in the Privy Conference and the Body of the Assembly had little to do namely after the year 1597 such men were named to be on the Privy Conference who for the most part were known to favour the purpose intended, and one or two whom the chief leaders knew to be contrary minded were also named to be there to the end they might know what the contrary party would object, and when the acts were in voting and penning these two or more could do nothing by their few votes. And when their conclusions were propounded in the open Assembly it was called presumption to oppose what was debated and concluded in the Privy Conference especially after the erection of the Bishops, the Archbishop of St. Andrews by his power did name the Conference; and so were things carried both in the Generall and Episcopall or Diocesan Synods.

The latter clause is important as granting a power to revise and place in their final form all acts passed by Assembly. Thus it is evident that the small ring of eight ministers and the Moderator had almost unlimited influence in arranging business and settling the statutory form of the accomplished acts which must have involved many important details of interpretation(1)

The numbers of this small advisory committee were by no means constant. In April 1578 under the Moderatorship of Andrew Melville, only four ministers (2) were chosen to "concurrere and conferre with him at extraordinary hours, to advyse upon sick matters as salbe thocht best to be proponit in the Assemblie"! Mr. Andro' himself, as the driving force of this period probably needed or desired little advice and was almost sure to rule things his own way.

Even in the brief Assembly of June 1578, though it was so small that there was some doubt as to whether it should constitute itself a formal General Assembly at all, immediately after the appointment of the Moderator (John Row) the Assessors were elected. They were five in number and as in the previous instance one of them was the moderator of the immediately preceding assembly. Their duty as defined, was "to give their counsell and communicat with the Moderator in sick matters as salbe thocht best to be resolvit at this Conventioun". (3)

(1) Row like the rest deploras the appointment of these Assessors, which "in dayes of defection came to ane horrible corruption; for the Privie Conference did all and the Assemblie wes as an cipher." He gives their powers as: "to meit and conferre with the Moderator upon all maters of importance to be treated upon at this assembly and so to prepare them for the Assembly and also (the brethren) thincke fitt that Acts made in the Assembly be considdered by these brethren" (Historie. p. 352)

(2) They were : John Row; Robert Pont; James Lowson; David Lindsay (the Ex-Moderator) B.U.K. 403; Row, p. 353; Calderwood III P. 398.

(3) B.U.K. p. 413; C. III. p. 410; Row p. 355. The personnel shows a great similarity i.e. Pont; Lowson; Andrew Melville; Craig; Andrew Hay.

In the next Assembly October 1578, seven Assessors were appointed to convene with the Moderator David Ferguson, at 7 a.m. and 2 p.m. in Mr James Lowson's gallery, to confer and advise for the better expedition of matters. (1) It is noteworthy that the custom has established itself of including in the list of Assessors the previous moderator, since he knew best what had been the former order and precedent. Another point to notice is that the ring is extremely narrow and that the same people, most of whom had themselves been moderators, form an oligarchy which organizes all the business of the Assembly before ever the main body hears of it. It would appear that this particular Conference heard in private the reasons offered by Boyd the Commissioner of Kyle as excuse for his negligence, though they judged it best that he should publish his formal answer in open Assembly. (2)

No layman as yet had place on this committee, and this again is borne out in the appointment in the next Assembly (July 1579) of nine assessors (3) to give advice to Thomas Smeaton the Moderator, only one of whom had any pretensions to 'laity' i.e. the laird of Dun, who held the position of Superintendent of Angus though there is some doubt as to whether he ever formally entered the ministry. (4)

It seems that the Moderator nominated his own assessors though the final appointment was made by the Assembly itself. Thus Smeaton "desired certain of the brethren to concur, at whose desire (the Assessors) were appointed".

(1) They were Lowson; Hay; Row; Pont; Smeaton; Craig Andrew Melville. (B.U.K. p. 418); Row. p. 356; Calderwood III 427 ;)

(2) C. III. p. 429

(3) Dun; ROW; Melville; Hay; Lowson; Pont; FERGUSON Greig (Craig ?); Christison. (B.U.K. p. 427; C. III. p. 445; Row does not give the number of Assessors)

(4) Some accounts make it appear that he never reached any status higher than exhorter, but it is difficult to see how he reconciled his functions of admission etc if he was not ordained.

that/ By the next General Assembly the system had already come in for considerable criticism, and a motion was made as to whether the practice ought to be continued or not. Row says the question was put to the vote, but this only meant the Lothian and Fife representation who formed the largest part of the personnel of the Assembly, simply carried matters as they desired. The individual ministers of the North and West for instance, had little chance of making their opinions felt, in the face of the overwhelming majority of the "Popes of Edinburgh" or the Prophets of Fife. (1). The Moderator in this instance was James Lowson, and from the text it is clear that the Assessors, if any there were to be, were in his nomination. (2). It was undoubtedly feared that the liberty of debate might be prejudiced and all who had any objections against the system were asked to reason on the point. The result of the vote was that it was agreed to retain it as good and necessary, though "without any hurt or prejudice to the libertie of the brether." (3)

It may be significant that in the list of Assessors ultimately elected laymen appear for the first time i.e. there were nine ministers (4) and two lay representatives, The Lord of Braid and John Johnstone one of the Edinburgh delegates. Particular points in the examination of Visitors were referred to their adjudication (5) and in addition they had the important duty of preparing "the articles which should be presented to his Majestie, namelie that the Kirk may be restored to the benefitt of the act of Parliament made concerning the third" (6).

(1) Row p. 360 says: - Some brethren thought that order of Assessors tyrannical, or tending to tyrannie superioritie and usurpation zet, by pluralitie of votes it was caried at that tyme to be continued as a good and profitable thing. So eleven assessors were nominate to assist the moderator.

(2) "He desyrit certaine brether guhom he wald nominat to be appointit to conferre with him". B.U.K. p. 449

(3) *ibid.*, p. 449-50

(4) Pony, Smeaton, Melville, George Hay, Christison, Ferguson Young, Patrick Auchinleck, Thomas Buchanan.

(5) C. III. p. 465

(6) *ibid.*, p. 466.

All doubts, however were not laid aside. At the next election of a Moderator in October 1580, Andrew Hay, being chosen, "desired certain brethren to be appointed to convene with him at extraordinary hours to give their advice with him in matters to be proponed and treated during this Assembly." (1) Any member having any "mislyking" for this order of procedure was invited to "propone some substantial reason", but no one coming forward with any objection, the brethren of the Assembly requested the moderator "to nominate the said persons whose conference he craved". Their meeting place was in the East Kirk, close beside the Tolbooth where the Assembly convened, and the extraordinary hours were 7a.m. and 2p.m. Nine ministers and the two lay representatives of Edinburgh constituted the Conference, in this instance but little can be gathered as to the details of their activities. Information, at this period on the whole question of Assessors is scanty, owing to the fact that, though at the time that Row and Calderwood wrote, the official Registers (now destroyed) were still extant, they were considerably mutilated through the instrumentality of Patrick Adamson or the King himself. (2)

In April 1581 the Assessors chosen were nine in number, three of these being Lothian lairds. (3), and the hours of meeting seem to have become fixed at 7a.m. and 2p.m. In this Assembly, the Committee of Bills and Questions of which for long nothing had been heard, was revived and seven ministers were appointed to consider these, - "permitting alwayes matters of great weight and difficulty to the resolution of the full Assembly." / (4) Thus between the Moderators Assessory Committee, and this secondary committee

(1) B.U.K. p. 463; C.III. p. 473.

(2) Pont, Lowson (Ex-Moderator); Melville; Smeaton; G. Hay; Ferguson; Lindsay; Thomas Buchanan; W. Rynd;

(3) B.U.K. p. 473; C.III p. 515. Their names were: (note the similarity to the preceding list)
Andrew Hay (Ex-Mod.) Lowson; Lindsay; Smeaton; Christison; Ferguson;

The Lairds were: - Braid; Dunrod; Pilrig.

(4) B.U.K. p. 475.

of Bills and Questions, it would seem that very little business could be initiated in Assembly just as in Parliament, no Bills were considered save those formally given in to the Lords of The Articles.

The Assembly of October 1581 appointed John Duncanson as Moderator and sanctioned the election of nine Assessors, all ministers. (1) They were to meet once more in Mr. James Lowson's Gallery (in the Ministers' Close?) every day at the hours of eight and two until the end of the Assembly.

The next appointment of Assessors in April 1582, increased the numbers considerably, and added a proportion of lay members. Andrew Melville was moderator, and chose seventeen persons to assist him, seven of whom were laymen. (2) The predominance of Lothian Lairds is noticeable. Indeed the whole system reflects the supremacy of the Lothian and Fife influence.

At the extraordinary Assembly of June 1582, held mainly for the discussion of the case of John Durie, in relation to the "bloodie guillie of absolute authoritie" (3), Assessors were undoubtedly appointed to assist Andrew Melville (again Moderator), for an important, on the question of Durie's alleged submission was remitted to their consideration. (4); and in the same Assembly witnesses in the case of violence used against the Glasgow Presbytery, made their depositions before them. Their powers were therefore gradually increasing from the earlier function of mere arrangement and classification of business.

In the October Assembly, by which time a revolution had taken place, the Assessors attached to the Moderator (David Lindsay) comprised nine ministers and three lairds, who were to meet at 8 a.m. and 2 p.m. to advise upon such things as shall be proponed and reasoned in this

(1) B.U.K. p. 522; C.III. p. 577; They were Lowson, Pont Hay, Melville, Lindsay, Smeaton, Arbuthnot, Polwart, Ferguson.

(2) Ministers Craig, Lowson, Pont, Hay, Lindsay, Smeaton, Polwart, Buchanan, Patrick Adamson, The Lord Rector

Laymen Lairds: - Lundie; Merchiston; Braid; Pilrig;
Elphinstone; Kynninmonth; John
Johnstone (Commissioner of Edinburgh)

(3) C.III. p. 622.

(4) *ibid.* p. 623; 625.

Assembly"(1)

The moderator of the 1583(April) Assembly was Thomas Smeaton, whose assessors, numbering nine(2) with no lay element at all, were ordained to advise upon "such heids as were to come in reasoning before the Assemblie everie day as they sall think expedient, before they enter to the Assemblie not prejudging the libertie of the brethren in anything(3). Lindsay the late Moderator was about to set out for England with the King's ambassador. He was instructed to convene after his return, with the Moderator and his Assessors to discuss with them any matter involved in the embassy, which it might be advisable for the whole Kirk to know. This would infer that these Assessors advised with the Moderator in the intervals between Assemblies, and were in short a kind of standing Commission of Assembly.

Robert Pont, Moderator once more in October 1583, had 14 Assessors, 4 of whom were laymen, "for the riper resolutione of matters which are to be treated".(4) Their meetings as usual took place in the early morning in Lowson's gallery, and again the proportion of the Lothian Representation is to be noted.

In May 1586 the election of the Moderator was carried on in the presence of the King himself, who voting first for David Lindsay drew all the others with him.(5) The Assessors on this occasion seem to have been nominated by the full Assembly, and they were more numerous than ever they had been i.e. twenty one-composed entirely of ministers. The King raised an objection against one of them - "I have something to say against that man" - and another was substituted in his place.(6) The King on his part nominated

- (1) Their names were: Pont, Lowson, Hay, Melville, Smeaton, Ferguson, G. Hay, Duncanson, Christison.
Lairds: - Lundie, Whittingham, Braid, (B.U.K.p.585)
- (2) Eight after the departure of Lindsay.....C.III.p.705.
- (3) B.U.K.p.612. Their names were those of the usual leaders.
- (4) ibid.p.626; C.III.p.731; they were Lowson, Melville, Smeaton, Craig, Balcanquhall, Blackburn, Polwart, Davidson, Dalgleish, Durie. and laymen: - Lairds of Braid and Pilrig and the two Edinburgh commissioners.
- (5) B.U.K.p.646
- (6) ibid.

- the Secretary, the Justice Clerk, the Lord Privy Seal, Mr. John Grahame, Lord Culross, Mr. Peter Young, to concur with these Assessors "on matters mutuallie to be propounded". The king would thus seem to have realized the importance of this Conference where he might secretly as it were bring pressure to bear without incurring the opprobrium of attempting (1) to browbeat the full Assembly. Row says that on this Privy Conference there were 24 ministers besides elders and takes the opportunity once more to deplore the institution, as containing in it the germ of corruption, instancing the preliminary discussion of Uniformity of Discipline in this Private Meeting, which was prejudicial to open debate in the full Assembly. "This Privie Conference" he declares, "in the tymes of Apostacie proved the bane of this Kirk; for the Privie Conference did all, - the Assemblie was made a cipher." (2)

Even the brief glance we are permitted at their activities reveals how important these Assessors had become. Thus for example they first considered the great Fife Synod case; they first reasoned in privy conference the doubts on discipline brought to the notice of the Assembly by the Synod of Lothian; and the chief points agreed upon in a preceding consultation with the King in February came in the first place before the Privy Conference for "reasoning". (3)

- The Privy Conference was smaller in the Assembly of June 1587, of which Andrew Melville was Moderator, and was composed entirely of ministers - thirteen in all - including the ex-moderator (4) David Lindsay. Their appointment seems no longer to be entirely at the discretion of the Moderator alone. Melville is represented as "asking the Assembly to nominate" though this was perhaps only a form of expression. Their powers in any case were considerably augmented, for matters which had already occupied the Assembly for long without any definite decision being arrived at, were referred to the Moderator and his Assessors to "confer consult and advise if they may conclude and putt finall end therin." (5)

(1) B.U.K.p.647; C.III.p.549.

(2) ROW.Historie (Additions) p.392

(3) Calderwood IV pp.550,554,558.

(4) B.U.K.p.685; C.IV.p.615

(5) C.IV.p.623.

As in the previous General Assembly, a small committee was appointed to consider complaints and questions which the Synods had been unable to decide, with power to give conclusive answer to such as did not require the opinion of the the full meeting. (1) Thus once more was the authority of the Assembly dissipated in Committee.

The Assembly of February 1588 under the Moderacy of Robert Bruce had nineteen Assessors (2) of whom a large proportion were laymen. There is some ambiguity as to what and how many commissioners represented the King, but in any case they must all have been included in the thirteen laymen appointed. The Assembly was by no means a normal one and the times were critical, for the Armada was daily expected. For the defence of religion and country alike the Assembly looked to the laity to carry out protective measures, and Crown and Kirk buried their differences to unite against the common danger. Only six of the leading ministers were Assessors (3) while some effort at representation of the different Estates was attempted something after the manner of the Articles. (The lairds by this time had won for themselves representation on the Articles and in Parliament) X Thus on the Conference the Estate of the Burghs was represented by the Commissioners of Edinburgh, Dundee and Aberdeen, the Lairds by Colluthie, Caprington, Whittingham, Carnell. (4)

(1) B.U.K.p.690; for the previous committee of Bills
(2) ~~see~~ B.U.K.p.656.

(2) Row merely says "Many Assessors were given the Moderator" p.402.

(3) i.e. Pont; Lindsay; Melville (Ex-Moderator); Thomas Buchanan; Peter Blackburn; Christison.

(4) The full list is given as:- The Master of Lindsay Ochiltree; Lochleven; The Constable of Dundee; The Tutor of Pitcur; Lairds Colluthie; Caprington; Whittingham; Carnell; John Lindsay (Senator of the College of Justice); John Johnston (commissioner of Edinburgh); Alexander Scrimgeour (Dundee); William Menzies. B.U.K.p.703.

X: Although The true representative principle
was not exercised till 1594

Examination of the charges against James Gibson was referred to this Privy Conference, to which were admitted his accusers the Lord Privy Seal and Sir Robert Melville. He seems to have been brought to some confession of his fault, and when in the open Assembly some doubt was raised on the point, "those who had heard him do so in the Galrie at this private examination, deponed on oath to that effect. (1)

The dread of the Armada had not yet passed when the next Assembly was held in August of the same year. As advisers to the Moderator (Thomas Buchanan) the Kirk nominated no fewer than 27 Assessors, of whom only 6 were laymen i.e. the Laird of Lochleven, the Master of Lindsay, the Tutor of Pitcur, the Lairds of Elphinstone and Kers and John Johnston of Elphinstone - the Edinburgh representative. Probably the first three held some commission from the King. Their duties were to concur with the Moderator, "in all matters which are to come before the Assembly". (2) These assessors certainly did a great deal of the business of this Assembly, especially in negotiations with the King. (3) It was probably owing to their resolutions that "the grave danger to Kirk and Commonwealth by the arrival of Spaniards and Barbars was first dealt with". (4)

There is no officially recorded appointment of assessors between the Assembly of 1588 and that of August 1590, of which Patrick Galloway was moderator. He "desyrit certaine of the grave and learned brethren to be givin Assessours to him be whose advyse he may propone such things as were meitest to be treatit at this time." i.e. he appears to nominate them himself, but the familiar names as usual are there, twentyone in number and all apparently ministers. They met as usual in the "Galerie". (5) There is no mention of the King's Commissioners attending their meetings, nor of His Majesty's interference in any way with their deliberations, though he himself was present in open Assembly in the 8th Session, when the famous scene was enacted, wherein he declared he rejoiced to be born in such a time of religious fervour etc... (6)

(1) C.IV.p.674.

(2) B.U.K.p.729; C.IV.582

(3) C.IV.p.684

(4) ibid.

(5) B.U.K.p.768; Calderwood V.p.104 only gives 17

(6) B.U.K.p.771.

The list of Assessors or Privy Conference for the next General Assembly of July 1591, is not given, although they certainly were elected to assist Mr Nicol Dalgleish the Moderator. This is evident from the statement that all arguments and questions as to the validity of the Assembly (which had been transferred at the King's desire to Edinburgh) were referred for satisfaction to the brethren of the Conference.(1)

Objections certainly were sometimes made against the committee system which was growing up. Particularly did the Committee of Bills and Questions come under stricture, as being "derogative to the Provincial Assemblies speciallie in that far as matters quhilks are thocht doubtsume to thame and referrit to the full Assemblie are committed to the decisioun of foure or fyve brether".(2) The powers of the Committee of Bills were therefore restricted to consideration of Bills which were to come before the full meeting, as to whether they were pertinent or not, the final answer being reserved for the main body though the Committee was permitted to express its opinion as to the problems involved.

No list of Assessors is given in May 1592 when Robert Bruce was Moderator(3); but in April 1593 under the Moderacy of David Lyndsay, they numbered as many as 32, the large majority being of the ministry. The Laity were represented only by the Lairds of Cambo, Abbotshall, Powrie-Ogilvie, and the Commissioners of Edinburgh and Leith. They met in the "rewestrie" of the Kirk at the hours of 8a.m. and 2p.m. "to gif thair adwyse and counsell in proceeding in materis of this Assemblie"(4)

The Committee of Bills on the other hand was extremely small consisting only of 4 ministers (Nicholson, Dalgleish, Gardein, and James Melville, all of whom were also members of the Privy Conference(5).

(1) B.U.K.p.779; C.Vol.V.p.133; Row.p.409.

The Kirk had already voted it lawful.

(2) B.U.K.p.781

(3) ibid.p.786

(4) ibid.p.796

(5) ibid.p.798.

From the Privy Conference also were chosen the brethren to confer secretly with the King's Articles i.e. six ministers and the Laird of Cambo and the Commissioners of Edinburgh. Their answers seem to have been passed without question and engrossed in the Acts of Assembly. (1) More and more is it evident that the leading clique of ministers carry the whole business of Assembly on their shoulders.

No mention of Assessors is made in the Assembly of May 1594 when Andrew Melville was Moderator, nor in June 1595 (James Nicholson) nor March 1596 under Robert Pont. In the Assembly of March 1597 i.e. the joint Assembly-Convention which met at Perth, summoned on the King's missive, and which was only recognized as a General Assembly of the Kirk by the influence of the Northern vote, there is no mention of the Moderator or his Assessors (2) but for preparing the Answers to the King's Articles there was appointed a committee which seems roughly to have corresponded to the customary Privy Conference. In this instance the members were chosen on a kind of representative system not hitherto attempted. A number of brethren were elected out of each shire to form the total of twentyone.

The Privy Conference is not referred to in the register of the Assembly of May 1597 though a part of their duty comes under discussion. It was enacted that in future all completed acts of the Kirk should be read in presence of the whole Assembly before they were "imbuikit" (3)

In March 1597-98 the Moderator (Blackburn of Aberdeen) was elected by the King's authority and plurality of votes (4) and following two days of delay (and bribery) "the assessors were against all order elected by the King. Davidson complained vehemently that the Moderator and his Assessors who should be as servants and helpers were become Lords and Commanders" Their names are not given, but the fact that the King nominated them explains how the vote in Parliament came to be passed and why it raised such little discussion. The probability is that they were pretty much the same people who were ready to do his will as "Commissioners of the Kirk". (4)

(1) B.U.K.p.804.

(2) .ibid.p.892; C.V.p.609. Row (p.438) declares Pont was moderator but Calderwood insists that no moderator was chosen "but one suborned by the Court mr.David Lindsay intruded himself (V.p.622)

(3) B.U.K.p.914

(4) Calderwood V.p.682 and 683

Robert Wilkie was moderator in March 1600(1) The plan of campaign pursued by the Court was to divide the vote of the zealous by putting a ~~great~~ many of the leading ministers on the leets for moderator, and a second scheme was to place "the cheefe of the whole assemblie upon the Conference" so that their arguments might be heard in private and their eloquent tirades in open Assembly thus forestalled. This silencing process worked well. The King in fact seems to have reserved the right to attend personally, or by numerous representatives, the deliberations of this body. Thus when the four "zealous brethren" deputed by the Conference to reason with those Assessors/who were Court party, went too deeply into the question of definition of Parliament, and vote in Parliament, they were bidden to appear before the King himself and certain of his Council, there to continue their reasoning in, what James Melville calls, the Publict Conference, though the main body of Assembly was not present but only the remainder of the Privy Conference.(2) the King, and Council.

On the great question of the Voters in Parliament decision was certainly made in open Assembly and there was voting, albeit corrupt, on individual/points but once this was accomplished, the remainder of the articles were simply read, advised upon, (as a matter of form) and ratified en bloc.(3)

Though other authorities do not mention it, an the assurance of Calderwood we have it that a Privy Conference was appointed in the Assembly of May 1601 at Burntisland. They dealt with the King on the principal topics and particularly on the question of the transfer of the Edinburgh ministers. The custom is now that instead of individual groups of commissioners being appointed to negotiate with the King on individual points the Privy Conference has drawn all such inter-communication into its own hands, just as the permanent Commission of Assembly controlled all communications in the intervals of Assemblies. It seems to be in this Privy Conference that it is particularly noted that the members put questions to the vote which according to the

(1) Calderwood VI. p. 2

(2) James Melville p. 469

(3) C. VI. p. 17

compare the King's attendance in the "Articles"

to their first institution they were not entitled to do. John Hall was Moderator and he and his Assessors sent for some other ministers to assist their petitions to the King Particularly on the point of the transfer of the Edinburgh ministry. But apparently they thought better of it, for before these additional ministers made their appearance the Conference had by a majority vote decided that they should agree to the "transportation" rather than hazard the King's good will by insisting on their rights. The redoubtable "die-hards", Andrew Melville, Carmichael, Knox, and Patrick Simson in this Privy Vote opposed the motion. In this instance at least the main body of the Assembly in spite of this Conference Decision still retained its power to vote on the question when it was brought up in the open meeting, although the ultimate result was the same as that arrived at by the Assessors. (1)

The Privy Conference appears once more in the Assembly of 1602 under the Moderacy of Patrick Galloway. It contained 28 members all ministers and both parties were represented, though the more violent were naturally in the minority. (2) but otherwise we hear little from any of the contemporary historians of its activities.

In the notorious Assembly of 1606, after considerable delay a Moderator was appointed in the person of James Nicholson. Thereafter a number were nominated for the privie conference which was appointed to be (no longer at extraordinary hours) but at the time usually occupied by the meeting of the Main Body in the Afternoon. The rest of the General Assembly thereupon dissolved for the rest of the day. The actual sittings of the full Assembly were very short and dealt for the most part with the purely formal examination of reports. (3). The Conference on the other hand considered all the important business particularly in relation to negotiations with the Civil Power, and the decisive debates took place in the private meeting, in which for example the King's desires concerning Constant Moderators were first expressed.

(4)

(1) Calderwood VI p. 119-120 The vote was 55-28 while 6 voted non liquet.

(2) B.U.K. p. 980

(3) *ibid.* p. 1024

(4) *ibid.* p. 1027-1028

Although passing the schemes in general outline, they yet imposed those "cautions" which eventually were the conditions of acceptance in the General Body. "They (the Conference) would not take on them to determine their advise theranent quhill first the mater were exactlie reasoned in their presence and sufficient remeid provided for preventing all inconvenients".(1)

As the Conference agreed so it was consented to in Open Assembly almost automatically "without contradiction!"

The Privy Conference of July 1608 under the Moderacy of James Law Bishop of Orkney consisted of 39 persons of whom 15 were laymen most of whom had been sent there by the King to influence the vote, while the whole of the new Prelates were also included.(2) Their meetings were appointed at the usual hours for Conference 8a.m. and two p.m. while the ordinary hours for the full Assembly were 9a.m. and 3p.m.(3) But the Privy Debates were often so lengthy as to preclude discussion in open Assembly at the usual hours. Thus the Synods were ordained to give in their proposals against Popery and Idolatry to the Privy Conference for their consideration, and pressure of business was eventually so great that a still smaller committee or inner ring within the conference itself was instituted to arrange and classify the problems.(4)

The 1610 Assembly which set the final seal upon Episcopacy was largely attended. From the 175 persons present the Moderator Spottiswoode was given a very large number of Assessors who were in fact to carry out the greater part of the business in hand. What was virtually an antecedent Privy Conference had taken place between the Bishops and Dunbar the King's chief Commissioner, who according to Calderwood before the Assembly began at all had "three dayes serious conference contriving how to order matters at the Assembly(5)

(1) B.U.K.p.1032; Cal.Vol.VI p.608 "The article was fullie agreed upon in privie conference and thereafter passed by vote in open Assembly"; Melville p.685

(2) B.U.K.p.1047 The laymen were the four Royal Commissioners Dunbar Wigton Lothian and the Collector General; Glencairn Kinghorn Graham Lindsay Loudoun Blantyre Holyroodhouse. Lairds Balmain Kinnaird Kilsyth Carnell.

Calderwood says that the ministers of the conference were chosen of the worst sort.(VI.752)

(3) B.U.K.p.1049 (4) ibid p.1049

(5) C.VII p.94)

The Assessors eventually elected to the Privy Conference "for treating of such matters as are to be concluded" were :the "Bishops, Dunbar, manie statsmen and noblemen, some ministers, deemed by the simpler sort to be opposite to Bishops howbeit they were not such in deed" (1)

The Book of the Universal Kirk mentions ten Bishops and thirtyseven ministers as being members along with the the four officially accredited Royal Commissioners. Their meetings as usual were at seven a.m. and two p.m. and the full meeting of the Assembly at 9 and 3 o'clock. Such important points as the King's letter were immediately referred to them for answer (2) particularly on ~~these details of discipline~~ which he desired to be reformed. It is important to notice how all the contemporary historians particularly Spottiswoode and Calderwood place far more significance upon the deliberations of this originally informal committee than upon the deliberations of the full sederunts of the Assembly.

~~Two~~ hours-from 7 till 9 were no longer enough to arrange and prepare the mass of business committed to them. While their debated continued the main body of the General Assembly sat looking one to another till eleven in the morning having waited since eight or nine. The Privy Conference had found it necessary to subdivide itself to discuss particular points, (3) but after long disputation they at last seemed to have arrived at some kind of unanimity or at least decisive majority vote. "They come forth to the Assembly long kept waiting and communicate the Heads and the Articles which they had agreed upon" (4).

Protests in Assembly against these high handed measures were silenced by referring them to the Privy Conference itself. The system was simply a vicious circle. (5).

(1) C.VII.p.95

(2) B.U.K.p.1095

(3) Six Bishops and six ministers were set apart to discuss means of peace and concord in the church (C.VII.p.95-96)

(4) B.U.K.p.1095

(5) C.VII.p.96.

These Heads and Articles, which confirmed the whole tendency towards Episcopacy, seem to have been passed in their entirety by the General Assembly(1) which now was obviously so much under the influence of the Court that it simply registered the conclusions of the Privy Conference. Meeting again in the afternoon the Privy Conference agreed upon further "conclusions" which were similarly "passit efter the maner of the Privie Conference"(2) by the full meeting. The method used seems to have been that of the Parliamentary system being passed en masse and "not propounded or discussed severally or discussed at all."(3) And according to the Presbyterian writers the majority of the voters were well bribed, though the distribution of the money was explained by others as arrears of stipend or expenses of Travel for those who came from a great distance.

This System of Conference had worked so well and been so effective in obtaining the Kirk's consent with the minimum of opposition that the method was extended to the Synods with special regard to the recalcitrant provinces of Lothian and Fife.(4)

In the next Assembly of August 1616 the plan was repeated. The formality of election of a Moderator was dispensed with and the Primate automatically took the lead, since he was entitled to preside at all ecclesiastical conventions within his diocese. His Assessors were exceptionally numerous consisting of 20 ministers, 15 laymen (Lords and Barons) all the Bishops and Privy Councillors present, along with the King's Commissioner and his two Assisters. They must have numbered close upon sixty (5). The character of the Assessors has therefore entirely changed. The change has been gradual but nevertheless

(1) B.U.K.p.1098 (2) James Melville.p.802

(3) Calderwood.VII.p.97

(4) ibid.p.121 and p.128

(5) ibid.p.228; B.U.K.p.1116

certain and is probably traceable to the the first introduction of the laird elder into its constitution . No longer is it composed only of ministers, but we may conjecture that some indication of representation of Estates is attempted. Thus ministry Lords and Privy Council (which includes Bishops) are all present while the King is present to preside as he sometimes did in the parallel case of the Lords of the Articles.

Once more whatever was agreed upon in Privy Conference was read and passed in Assembly. According to the custom which prevailed in the Kirk, individual members were asked for their votes and the probable "Noes" were simply passed over. Thus it appeared to be a practically unanimous acceptance of the decisions of the Conference equally on necessary measures for the suppression of Papists as on points of the greatest significance with respect to The Order of Discipline and the new Episcopalian Polity.(1)

When in November 1617 the ill-omened Five Articles were proposed for the first time, it was the Privy Conference which first debated upon them.(2) "but the King and the Bishops' purpose was withstood both in the privie conference and in the public Assembly.(3) But this opposition was crushed in the much abused Assembly of 1618 at Perth, and it was there that the Privy Conference was used with greatest effect. The court party intended to see that this important body held a round majority of its friends, and realizing this the opposing Presbyterians strove to prove the Conference invalid. They protested that since no Moderator had been voted for he could not have any Assessors, and claimed that it was only right that the King's Five Articles which were only Known to the Assembly in brief, might be amply extended and expanded so that the Public meeting might have a better idea of what it was voting on. This would infer that the full details of the problems involved were never revealed outside the Conference and only the bare conclusions were presented to the full Assembly for ratification without the majority knowing what interpretation and significance really attached thereto.

(1) C.VII p.227

(2) Their names are not given.

(3) ibid. p.285

But these objections were passed over as "toyes". "Trouble us not with needless questions; we shall speake of these things in the privie conference" (1) The nomination of this Conference, according to Calderwood was quite irregular, in that 'the Moderator appointed his own assessors at his own pleasure without advyse or information of the provinces or presbyteries. (2) but as we have seen this method had quite as much if not more precedent than the representative system, which only in one doubtful recorded instance seems to have obtained. (3) According to Lindsay, on the other hand the ancient custom of the General Assemblies was maintained. "Besides Bishops Noblemen Barons and Commissioners of Burghs" he says, "the most wise and learned of the ministry were named indifferently without any respect had of their opinions and private inclinations". (4) Some of the most active opponents of Episcopacy were without doubt, included in the list, "to try the force of their arguments in private that in public, they might either be evadit or suppressed" (5) This list of persons over whom there was so much controversy is preserved. Thus there were for the King, seven Commissioners and Assessors; four other Lords ie Lothian, Ochiltree, Sanquhar, Boyd; ten Barons (Waighton Wemys Balcomie Cluny Glenurquhart Balcarres Lagge Balmanno Boniton, Bogie) i.e. the whole of the Barons present in Assembly with the exception of three. And all of them in fact by inclination or interest were of the Episcopalian interest; eight Commissioners of Burghs (Edinburgh Perth Dundee Aberdeen Glasgow) Thus the Lay element numbered 29 and in its arrangement into the Three Estates Lord Barons Burgesses with the Royal Commissioners to correspond to the Officers of State it offers a very close analogy to the composition of the Lords Of the Articles of Parliament. The Ecclesiastical element 45 and was composed of eleven Bishops and thirtyfour ministers

(1) Calderwood. VII p. 317 (2) ibid.

(3) see supra p 306 (1586) ; Spottiswood simply mentions that "certain of the most wise and discreet ministers were set apart to confer on the Articles (p. 254 Vol III)

(4) B.U.K. p. 1144 (from Lindsay's True Narration)

(5) C. VII. p. 317.

Immediately after the appointment of these in the first session the main body of the Assembly dissolved until the morning of the following day when they expected to hear the conclusions agreed upon by the Conference. When they did assemble however they were told that the Conference had not yet finished their deliberations and were dismissed apparently without another session being arranged. "At the call of the Bell" however they again assembled with some intention apparently of asserting their rights, but the Moderator the ArchBishop explained to them that it was the Privy Conference only which was to meet, and ultimately persuaded them to depart in order "that matters might be expedite for ending of the Assemblée the morne" (1) Thus the Assembly's procedure was to be on the exact parallel of that of the Parliament-- meeting for the first session for the simple purpose of electing Lords Articles in the one case, assessors in the other, and once again for the second and last session for the purpose of voting and ratifying their conclusions en bloc.

/not All the elaborate and formal reasoning took place/in the public Assembly, but in this secret conclave. The previous conferences had never been very sure about their right to prejudice the vote of/main body by voting formally at this allegedly preliminary stage (cf. supra) and though on at least one occasion they had done so they, as a rule, contented themselves with 'reasoning and conferring'. In this 1618 Assembly however the Moderator urged the Conference to vote upon the important Article concerning "kneeling" against which they anticipated greatest objection would be directed. Amongst the few "True Blue Presbyterians" who were upon the conference this proposal aroused the most vehement opposition. "The ministers alleged that the proper use of the conference is to prepare and put in order matters that are to be debated in the face of the Assembly, **AND NOT TO VOTE**; for it was an intolerable novelty in the Kirk, a great prejudice to public voting, and a presumptuous usurpation to vote and conclude matters belonging to the whole church. (2) And therefore it was required that the voting and further reasoning might be reserved to the full Assemblée". (3)

(1) C.VII p.321; B.U.K.p.1156

(2) ibid.p.320 (Row p.119 says voting took place in Conference in 1617) Others of the Conference who had been present both in early and latter days proved that voting had taken place (Lindsay True Narration B.U.K.

(3) C.VII.p.320

Spottiswoode in his reply deliberately produced the parallel of the Lords of the Articles (1) declaring that in any case the vote in Conference was not the final vote, but "onlie by way of advise, and not to determine." (2) In point of fact however none of those who voted for kneeling in the Privy Conference altered their opinion when it came to the final and public voting, and the less zealous or the indifferent members of the Main Body were undoubtedly influenced in their decision by the Knowledge that the Assessors had approved the motion.

In the Conference also the "Articles" were prepared and extended into their final form as Acts, just as in earlier days similar power had been given to the Moderator and his Assessors. These acts formally drawn up, the full Assembly in its second and last session was asked to ratify. Some of the bolder spirits insisted upon and were granted "some fashion of liberty to reason and argue" but any untoward speeches were peremptorily silenced by the Royal Commissioner and their objections met with the reply that these aspects had already had consideration in the Privy Conference. Yet Calderwood is right when he remarks: "And suppose all this had been done in the conference yit all was new to the full Assembly and ought to have been repeated and fullie discussed for information of all voitors." (2) Before the final vote came indeed, the minority, who obviously had been preparing in the interval some kind of campaign, against these allegedly unconstitutional methods, had articles of protest ready for presentation, containing the sum of their arguments against the "Innovations". They took this method of making their opinions known on the ground that "we have been debarred of access and from hearing the proceedings of the Conference their reasonings, consultations and a (3) advysements". They showed that whatsoever the vote of the conference might the Commissioners of the Presbyteries were convinced that their electors were unwilling to accept these innovations in ritual. These articles of protest were authoritatively quashed, and the Minority fell back upon a second line of defence or obstruction. They contended that each Article ought to be voted separately, "as many would agree to some of them who would not accept of

(1) C.vii, p.320 "the pretended moderator replied that was the custome of the Lords of the Articles in Parliament to proceede after that manner".

(2) ibid p.323 The first session was on Tuesday Morning Aug. 24 August 25 and the last session on Thursday 27 August.

(3) B.U.K.p.1159

all.(1). This also on the ground of the analogous procedure of the Lords of the Articles was refused and the Five Articles were voted 'in cumulo'. The Moderator called upon the members individually (and also upon some who had no commission to be present as members) for their acceptance or refusal in a fixed order i.e. King's Commissioners; Noblemen; Bishops; Barons; Doctors; Ministers; Burgesses.

The parallel in fact between the Lords of the Articles and the Assessors was almost complete. Had the King desired to continue his policy, instead of utilizing the Court of High Commission, the Bishops and their Diocesan Synods, we should ere long have seen a proportionate number of Lords Barons Ministers and Burgesses corresponding to the composition of the Lords Articles. As it was, with Earls Barons Bishops Burgesses and Ministers present the analogy was complete enough for all practical purposes.

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(1) Calderwood VII p.323

VOTING IN THE GENERAL ASSEMBLY

During the times of the struggles for establishment there is very little evidence as to the manner in which the vote of the Assembly was taken. There could have been little difference of opinion within the Kirk itself upon the demands for provision, for jurisdiction and punishment of immorality. There is evidence that a minority which felt that their views on the party policy of the Marian period and under Morton would not be heard simply remained away after the manner of the minorities in Parliament where absence was often accounted as tantamount to disaffection. Numbers were not fixed and the number of constituencies was likewise vague. Synods and Burghs were normally the electoral units but individual Kirks still continued to send at will. In such a condition of the constitution if a vote was ever taken it must have been a majority vote of individuals irrespective of constituency or of whether the voter was layman or ecclesiastic.

Upon the establishment of Presbyteries and the struggle for the acceptance of the Second Book of Discipline a difference may be hinted at. Calderwood and Melville assure us that during all the debates over the discipline nothing was settled until unanimity had been obtained by reasoning and argument with large an sufficient time allotted. The unanimous vote continued to be the ideal of the Melvilles and their Group, but they were careful to ensure that the "unanimous" vote was always in their favour by crowding the Assemblies with delegates of Fife and Lothian so that the few commissioners who came from the far distant quarters might have great difficulty in making their views known. On questions of expediency a majority vote must have been taken for attempts at "unanimity" would have implied persistent obstruction of business. When the King examined the constitution of the Kirk in 1596-97 with a view to reconstruction it was clear that a party existed in the Church whose principles of political and ecclesiastical policy were not those of the ruling groups of Lothian and Fife who since the return of 1586 had governed the Assemblies. The unanimous vote was suspect as being merely the unanimity of the Lowland Central Group and the jealousy of the Popes of Edinburgh evinced at the 1596-97 Assembly and the subsequent assemblies showed that the Kirk was not so united in political policy and constitutional pretensions as the records of the preceding Assemblies had indicated. Thereafter was established a rule for a clear majority on all points of difficulty and where the difference was small reasoning and debate were to be held for further confirmation. The insistence upon numerical superiority was distasteful to the extremists of Fife and Lothian and it is possible that they used the criterion of "godliness" rather than force of numbers in their computation. Nevertheless while they controlled the majority which consisted of the central provinces they did not suspect such superiority of numbers although they undoubtedly held that rule should be by the "best who are

commonly not the most". The establishment in 1597-98 of the fixed quota of members 3 ecclesiastics and one layman from each Presbytery and one layman from each Burgh with the exception of Edinburgh which sent two, effectively provided against "swamping" again.

No difference was made apparently between the lay and the ecclesiastical vote. There was no trace of vote according to Estates although once or twice on important topics the Estates of Ministers, Burgesses and Nobility deliberated apart (Feb. 1588 B.U.K.p.704). But technically they did not convene as Estates but as delegates from Presbyteries and Burghs. (In the more rigorous interpretation it was the Synod rather than the Presbytery which was the electoral unit.) The enormous numbers sent by the Lothian and Fife Presbyteries militate strongly against the suggestion that the unit of voting was the Presbytery. The inference must be that the majority vote was a majority of individuals not of constituencies. The Presbyteries frequently gave such instructions as necessitated the joint action of all their delegates but the ultimate vote was by a roll call of individuals on the analogy of Parliament. Calderwood however hints otherwise when in his account of the vote of 1596-97 as to whether the Convention was an Assembly or not, he states (1) that 11 Presbyteries voted for and 8 against the motion. This is curious for the sederunt definitely states that delegates from all Presbyteries were present. (2) 19 was a poor representation of the 50 Presbyteries extant in Scotland at the time. In the trial of the Commission of Assembly 1597-98 he seems to imply the same thing when he states that whole Presbyteries were (3) debarred from voting. But the roll called in that Assembly (led by the drunken Orkney Ass) can mean only that the individual vote obtained although like the Estates they were called in the order of their Presbyteries. Open and public vote was the rule. There was no hint of ballot. Each Commissioner as in Parliament was called by name and his opinion asked, by the Moderator. Until the King gained complete control of the Assessors voting might have taken place in any session of the Assembly, as the Privy Conference submitted the questions for their approval. But by 1618 the analogy with Parliament was complete and voting only took place on the last day of meeting and was virtually merely a ratification of what had been decided by vote already in the Privy Conference (see supra)

(1) C.V.p.607

(2) ibid.p.689

(3) ibid.p.695 The majority was only 10 for the vote in Parliament and that by means of a lay noncommissioned vote

(4) Rast. p. 405.

Calderwood records the individual vote of 1600 which was really a gain for the ultra Presbyterian party although the issue was later changed by the Royalists. This shows an almost equal division of opinion 51-48 and the historian complains of the numbers of laymen especially "burgesses" who were among the 48 (which implied that the lay vote had hardly the same prestige as the ministerial vote and incidentally that the laymen were not antagonistic to a perpetual commission for the voter in Parliament).

In 1601 another vote is recorded 55-28 for the transfer of the Edinburgh ministers. Six registered a "non liquet" vote. These lists show that the numbers of delegates from Presbyteries were never at full strength for the total list of voters seldom exceeded 100.

In 1602 it is definitely stated that the particular vote of every delegate was "speered" in the trial of the Commissioners of Assembly; in the same Assembly the Synod of Fife appealed for longer debate in order to obtain a more definite ruling by majority vote. They objected to the resolutions which passed "almost the half of the brethren gainsaying". When the small majority was on the zealots' side they had not apparently questioned it in 1600.

In 1606 the vote began by being only "an advice" of individuals and not the accredited commitment of representatives of Presbyteries (for the members were nominated) but subsequently a decisive vote in the affair of the Constant Moderator was taken when an overwhelming majority was obtained. 125 (or 126) ministers and the thirty three Crown barons voting affirmative and only 4 ministers negative 4 others refusing to vote as having no commission, and two voting non liquet. In the subsequent Assemblies Calderwood stigmatizes the majority as obtained by bribery and the Northern vote, whose presence in Assembly at all the Fife and Lothian extremists resented. (C.VII.p.99) In 1616 it was said that the vote was not free for several reasons. First because the Moderator in calling the roll of members and requesting their opinion only called those who would he thought vote in the Royalist favour, secondly on account of the implied threat in the presence of the Royal Guard, and thirdly because the majority of the opposition ministers withdrew before the vote was taken. The formula used was "What say you my Lord Laird or Mr. Doctor"? And the reply in almost every case was "Well my Lord". (C.VII.p.227)

In the 1618 voting was not confined to the commissioned and threats and bribes were used to obtain the passage of the Five Articles. The formula used varied "Will you accept or refuse the Five Articles?" or again "Will you consent to the Articles or disobey the King?". The response was not a reasoned argument such as the zealots loved but simply as in the 1621 Parliament. "Agree" or "Disagree"

The roll was called according to the Parliamentary method of Estates and not according to Presbyteries. The order observed was Noblemen, Bishops, Barons, Doctors, ministers, and Burgesses. Even in the case of the ministers names were called without reference to their Province or Presbytery and the likely affirmatives were asked for their opinion first. The same confusion was practised in the voting in the 1621 Parliament. The final vote according to Binning was 86-41 while 4 were "non liquet". Calderwood only records the negative vote in detail placing it at 1 nobleman, 1 doctor no burgesses, no barons and 45 ministers, thus illustrating once more the alienation of the "commons" due partly to the Royal principles of nominations and partly to their lack of sympathy with struggles on these details of ritual.

Sometimes it was the moderator who called the roll but more often it was the duty of the Clerk to "request" and compute the vote. The duty was probably normally shared by Moderator and Clerk on the model of the Parliament where Chancellor and Clerk Register fulfilled the duty. (Rait. p. 409)

The confusion of the units of representation confirm the contention that the Presbytery was seldom the unit of voting. Even the burgesses voted as individuals and not according to "burghs" otherwise the small towns of Fife would not have included their representation under that of the Presbytery of St. Andrews. The act of 1597-98 fixed the personnel at a possible 150 ministers (counting 50 Presbyteries) 50 lairds, 51 burgesses (counting 50 burghs Edinburgh returning two delegates) The doctor's position had been fixed by the Visitation of St. Andrews at one from the University though the principle was not applied to all Universities. If it was this fixed the number of doctors at 4. Yet the recorded votes never amounted to the possible total of 255 plus the three votes allowed by law to the Royal Commissioners.

The rule of 1598 was too late in being put into practice and too soon violated to form any definite criterion.

PART.III.

INTERACTION AND POINTS OF CONTACT BETWEEN ASSEMBLY AND CIVIL POWER.

I.Particular Commissions.

II.The Presbytery of Edinburgh

III.General Commissions and the Vote in Parliament.

PARLIAMENT AND ASSEMBLY

The Interaction and Points of Contact between Assembly
and the Civil Power.

Interaction between Parliament and Assembly came by two streams, first through the more or less informal attendances of members of Parliament, Privy Council and Officers of State, who promised to use their influence to effect the necessary reforms, and secondly through the formal and official presentation of "Articles" in the name of the Kirk to the Lords Articles of Parliament, or in the absence of a meeting of Estates, to the King and Privy Council by accredited representatives. The powers of these representatives gradually increased in importance, until it was thought expedient to set up a standing committee to deal with Civil Affairs particularly in relation to Parliament and Convention, with the consequent development into Commissions of Assembly and thence into the Conclave of Bishops.

At the beginning of the new religious era, while the Lords of the Congregation were the ruling Lords of Parliament the liaison between Kirk Assembly and Civil Convention was naturally extremely close, and petitions and communications of all kinds passed readily

between the two bodies, although answers were not immediately forthcoming and achievement in the matter of positive reform was slow.

The First Book of Discipline apparently deliberately counted upon a considerable interaction which indeed was extremely necessary if the polity and provision of the new Kirk were to become something more than a mere academic proposition. Thus although a minister was forbidden to "hant the Court" ie in any permanent capacity, yet it was taken as conceivable that he might do so for a time if the Kirk sent him or the Authority called for him. Neather yit must he be one of the counsall for Civill Affaires (Privy Council) be he never judgeit so apt for that purpose" since that would be a more or less permanent function, "but eather he must cease from the ministerie (which later it was decided was not permissible unless the abdicating minister took upon him the duty of a Doctor) or ellis from bearing charge in Civill affaires". Significant exception was made in favour of the institution which was by no means permanent i.e. "omles it be to assist the Parliament, yf he be called". (1) Andrew Melville and the later zealots often did not wait for the call of the Civil Authority to give their advice, but apparently took this to mean

(1) Knox. Works. Vol. II p.236 (Book of Discipline).

that "divine call" which inspired so many of their most presumptuous actions.

At the first Reformation Parliament "the Barronis Gentilmen Burgessis and utheris trew subjectis of this Realme preffessing the Lord Jesus Chryst within the samyn" formally petitioned the "Nobil: itie and Estaitis of Parliament presentlie assemblit within the said Realme" (1) As a result of this petition the Barons and ministers presenting it were instructed by Parliament to prepare the Confession of Faith which was duly registered in the Statute Book. Since there were (2) so many barons in Parliament on this occasion, whose constitutional representation was doubtful, it is clear that these Barons of the Congregation literally petitioned themselves. The Confession was read first in presence of the Lords of the Articles and afterwards in open Parliament. And on the first occasion several ministers were present to reason and give explanation on any points which the Lords Articles might desire. (3) It is noteworthy that it was not the Parliament which gave Commission to prepare the First Book of Discipline but the "Nobility" either in their capacity as Lords of the Congregation or as Lords of Privy Council. It was in

(1) Knox. II. Bk.iii p.89

(3) ibid. p.121

(2) A.P.S. ii.p.526 17th August. The estaitis of Scotland wt. the Inhabitantis of the samyn professing Christ Jesus his holy evangell to thair naturall cuntreyemen and to all utheris Realmes and Naciones professing the samyn.

fact only at the Convention of the Nobility in January of the following year that the Book of Discipline received its first signatures. (1) Though the records of the first Assembly of the Kirk in December 1560 are scanty they are sufficient to show that it prepared several petitions to Privy Council for consideration in Parliament.i.e.

(1) That only Protestants should be Lords of Session

Sheriffs, Stewards Bailiffs and Ordinary Judges, (in order to ensure that the decrees of the Kirk might receive due execution.)

(ii) An article for the protection of orphans and pupils by the preparation of statutes for the confirmation.

(iii) For the punishment of those saying and hearing mass

(iv) An indefinite petition on weights and measures, which was referred to the decision of Parliament.

(2)

It would appear that miscellaneous grievances some of them quite unconnected with religion were laid before the new institution in the hope that the church's influence with Parliament or the Lords of the Congregation would effect redress.

The Assembly obviously did not consider itself as being at full strength, and dissolved or prorogued

(1) Calderwood Vol.II p.44 Knox.II.p.129

(2) B.U.K.p.5

or progrogued itself, so that a larger fuller and more representative meeting might coincide with the convention of the Nobility which was to meet on the 15th of January, There is no record of this larger Convention of the Church but representations were undoubtedly made to the Nobility which resulted in the production of the Book Of Discipline. (2)

In any event care was taken that the next General Assembly should coincide with the convention of Estates in May and there seems to be evidence that the Convention of the Kirk in January had appointed some commissioners to keep the Brethren forewarned in case of emergency. and that they in point of fact did much of the work of preparation of Kirk business. (The majority of the authorities are some :what ambiguous on this score)

(1) B.U.K.p.7.

(2) C.II.p.50 see supra.

K.II.p.138;P.C.R.blank till Sept

(3) Calderwood says, "The brethren hearing of the Papists arrogance before the Convention of Estates, convened consulted and agreed a supplication should be made to the P.C..."and the whole assemblie then convened"(p.126) Knox is vague on the point but Petrie definitely states (p.223)"The Commissioners which were appointed by the Assembly of the Church convene May 17 and draw up these Articles to be presented unto the Convention" And the "Kirk" meeting on 28th May having heard these articles put in form and read in their presence after consideration agreed to their presentation to the Privy Council. (See B.U.K.p.10)

The fact however is clear that a list of seven requests was presented to the Lords of Privy Council whether they were meeting in Convention or not. The Articles presented were in two groups—those dealing with the suppression of the overthrown religion, and those dealing with provision for the new church and with regulations for the administration of that provision. The truth was that there was more than a hint on the part of the "barons and gentlemen professing Christ Jesus" —a class which had no Parliamentary representation as an Estate— of an attempt to bully the chief authority into compliance with their demands, and the persons chosen to present these petitions were mostly of this baron-laird order. (The Master of Lindsay, Lairds Fernihurst Lochinvar, Whittingham, Menzies of Pitfoddells and a Dundee

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- (1) The records of Council in any case are lost.
 (2) i.e. (A) Suppression of idolatry
 (Punishment for abuse of the sacraments.
 Punishment for those bringing home Papal Bulls
 (B) Support of the New Church
 (i) Provision for Superintendents more of whom are needed, and that laws be made for rendering their decrees effective.
 (ii) No letters to be granted by the Court of Session, giving teinds to any person except on the condition that the ministers portion be not raised but left in the hands of the parishioners etc.
 (iii) The Session to delay execution of precepts passed in favour of those having grants of manse and vicarages etc.
 (iv) Similarly that no letters receive execution until the ministers stipends as shown in the book of discipline are guaranteed.
 i.e. 40 bolls meal and 26 bolls malt was the minimum stipend.
- (3) B.U.K.p.9. Knox.II p.162.

burgess) These supplications were apparently agreed to in their entirety by the Privy Council. It was in fact the Lords of the Congregation ⁽¹⁾ whether Parliamentary or not who used both the Parliament and the new body the General Assembly to enforce their will. The position was altered when the Queen returned and the "holie water of the Court" began to be sprinkled about, while the scramble for places and pensions divided the ranks of the godly. Semi-private conferences were held between the active members of the Privy Council and a similar committee of the leaders of the ministry, to such an extent that the latter were informed of almost everything of importance in Council business.

(2)

The third General Assembly in some respects would seem to have been summoned to demand punishment of a particularly glaring case of abduction, but the more reasonable point of view is that it was merely the ordinary half yearly meeting. It met on December 15th

(1) P.C.R. blank till September 1561 but cf. B.U.K. p. 10 C.II. p. 128; Knox. II. p. 164.

(2) e.g. the conference to discuss the Mass, held in the house of James McGill the Clerk Register, between Moray, Morton, Marischal, Lethington, Bellenden (Justice Clerk) McGill, for the Privy Council and Row, George Hay, Robert Hamilton, and John Knox for the Church. (Knox. II. iv. p. 291)
The P.C. appointed in Sept. was a coalition of all parties, Hamiltons, Huntly's faction, Campbells, Bothwell Errol Marischal Atholl Morton Glencairn Moray Lord Erskine, plus the Treasurer the Secretary Clerk Register and Justice Clerk (P.C.R. I P. 157)

with the obvious intention of coinciding with or rather anticipating the Convention of Nobility which convened on the 22nd December. In any case however
 (1)
 intercommunication between Assembly and Convention was no longer on the old amicable footing, for the Courtiers and the Lords withdrew to Holyrood, with the result that the "Chief Commissioners of the Kirk, the Superintendents and some Ministers" were forced to go to them almost as supplicants in order to regain their goodwill. There were mutual recriminations- the Ministers accusing the Lords for not "keeping" the Convention of the Kirk, and the Lords calling in doubt whether such conventions were expedient, and complaining that the "ministers drew the gentilmen into secreat and ~~h~~ held counsallis without thair Knowledge" In fact
 (2)
 the Lords that is the Leaders of the Nobility who ruled alike in Council and Parliament, were realizing that this Assembly so recently established might, and indeed had, become the stronghold of the Barons and gentlemen who had no separate meeting as an Estate such as the Burghs had, and whose position as members of Parliament had remained undefined in spite of the great demonstration of 1560. (3)

(1) P.C.R. Vol. I. p. 192

(2) Knox. II; iii; p. 295

(3) cf. Rait. Parliaments of Scotland pp 6, 21, 202

Eventually it was agreed by the "most part als weil of the Nobilitie as of the Baronis" that General Assemblies were necessary to keep order and unity in doctrine, a very modest beginning for far reaching claims it was later to put forward. (1) So anxious were they to gain the countenance of the Civil Authority that a message was sent to the Queen inviting her, if she had any misgivings as to the matters they were about to treat to send some commissioners as her representatives to be present at all the Assembly debates.

(2)

It was the Barons, too, who when they saw that the Book of Discipline was being shelved, petitioned the Council for the support of the ministry and the suppression of idolatry with the result that the first arrangement for the thirds was made.

(3)

(1) Knox. II. p. 296 Tak from us the fredom of Assemblies and tak from us the Evangell.

(2) Ibid. p. 297

(3) Ibid. p. 299 et seq.; P.C.R. I; p. 193

The other petition, occasioned by the riot and abduction was according to Knox originated jointly by Nobility and Assembly. The Nobility e.g. the Master of Lindsay, were interested because it involved an attack upon the French party brought over by the Queen. Though at first it seemed as if it was a definite move in the direction of a general desire for law and order it soon resolved itself into the usual variety of brawl between Hamiltons on the one hand and Bothwell and the other abductors on the other. The fact remains that in B.U.K. this petition on behalf of justice is the only business extant is significant.

In the next Assembly of June 1562 the interaction between Assembly and Council went on in a more normal manner, and supplications on various heads were submitted. These were chiefly on points connected with default of ministers' stipends particularly (1) of those within Burghs, while a claim was made for manse and glebes according to the regulations laid down in the Book of Discipline. The Kirk realizing that the economic situation of the time would never be so arbitrarily altered as to allow of the acceptance of the Polity in its entirety had begun its long campaign for obtaining in small instalments what was denied it as an immediate remedy. An important point was made in an article on behalf of the poor whose cause had been considered in some detail in that Polity. The Council was now asked to encroach upon the settlement as to the thirds so recently made, by apportioning funds from the two thirds which still remained with the auld possessors, for the purpose of supporting the poor, and to provide education and parish schools in the manner of Knox's scheme. (2)

(1) The whole third was collected by the Queen's representative and the Committee known as the Lords Modifiers was set up to apportion the ministers dues. 300 marks was the maximum they gave.

"The good Laird of Pittarro was an earnest professor of Christ but the meikle devill receive the Comptroller for he and his Collectors are become greedy sectours."
(Knox. II. p. 311)

(2) B.U.K. p. 17

On the side of Discipline and Jurisdiction there were several points demanding settlement for which the authority of the Council was necessary i.e (i) the punishment of immorality, blasphemy, and Sabbath breaking; and (ii) For definition of the position of the Kirk's jurisdiction with regard to divorce.

(1)

The informal nature of the relations between the General Assembly and one of the Groups of the Privy Council is exemplified by the reference of a petition on the point of 'removal of idolatry' to the 'further consultation of the Godly of Her Majesty's Counsell.

(2)

Thus it would seem that a party in the Coalition Council prepared business in their capacity as Lords of the Congregation which later they considered in their official role as Lords of Secret Council. They sometimes in fact were petitioning themselves though the Queens assent had to be obtained before their business became effective.

- (1) B.U.K.p.19 "Anent the actiouns of divorcements to make supplication to the secrett counsell that either they give up universallie the judgement of divorce to the Kirk and their sessions, or els to establish men of good lyves knowledge and judgement to take the order thereof provyding alwayes that the saids Lordis make provisioun and ordinance how the guiltie persons divorced salbe punished. (This of course resulted more than a year later in the appointment of the Commissars 1564 P.C.R.I. p 252) The reason given by the Kirk for this request was that it could no longer sustain the burden of divorce since no punishment was appointed. thus showing that for some little time the sessions had been in control of that jurisdiction. B.U.K.p.23
- (2) ibid.

The petition which embodied these demands was ingeneral and rather vague terms. It was not the manner of the General Assembly at this period to formulate their articles in the terms in which they wished them to be passed either as acts of Parliament or Council. The Kirk for its own purpose could exalt the authority of Council at the ~~expence~~ of Parliament or at other times take (1) take up a constitutional attitude relying on Parliamentary support in opposition to the Royal Prerogative. In the present instance the whole of their influence was exerted to induce the Privy Council to accept the Polity which the Lords in their larger Convention of Nobility or Estates had shelved. The Assembly's vehement protests on behalf of the poor of three sorts may have had some temporary effect but reformation in face of the Lords' cupidity was slow, and for years to come the petitions and complaints of the Kirk were to be repeated again and again in almost the same terms without any real achievement being effected. This is not surprising when it is considered that even Parliament: any decrees received little respect ;while Decrees of the General Assembly were still less effective when unsupported by the Civil Authority and the Church was unwilling to put

(1)e.g. "If any object that punishment cannot be commanded to be executed without a Parliament ;we answer that the eternal God in his Parliamety has pronounced death to be the punishment of adulterie and blasphemy." (B.U.K.p.21)

to the test its final weapon, excommunication.

Even this petition in general terms as it was, was not insisted upon by the Assembly, for several members of the Privy Council debated and rebutted it (1) in the open meeting with the result that it was concluded that "the supplications as it was conceived should (only) be presented unless that the Secretarie wold forme one more agreeable to the present necessities. He promised to keep the substance of ours but he wold use other termes and ask things in a mair gentill maner" In its final form so carefully prepared that Knox called it but paynted (2) oratorie, it was presented by the Superintendents of Lothian and Fife to the Queen and Privy Council though there is little doubt that the Majority of the Council already knew every detail of its demands. If its first form had been too general according to modern ideas its terms in its latest phase were so indefinite that they made no impression upon the mind of the Sovereign round whom the whole situation hinged. By the time the next Assembly met in December (1562) nothing had been effected.

(1) By Lethington and McGill see Knox II p.344
Calderwood II p.193

(2) Knox. II p.345

The main tenor of the negotiations between Assembly and Civil Power was therefore practically a repetition of this previous abortive supplication. The Court promised that before the Parliament which was appointed for May, should meet satisfaction should be given but nevertheless a petition was presented again dealing with the same topics, though the points at issue were narrowed down and made more definite. The Kirk was not to be deceived again by painted oratory. Those who represented the Church on this occasion before the Council were the Superintendents of Lothian, Fife, Glasgow, and Angus along with the Superintendent elect of Jedburgh. The Superintendents had particular requests to make for support and additions to their own order. The dependence of the Kirk upon the good will of the Council is nowhere better evidenced than by the circumstance that although in its third session the Assembly had drawn up letters for election to the offices of Superintendents of Aberdeen Banff Jedburgh and Dumfries, the final choice and advice were left in the hands of the Privy Council.

(2)

(1) Knox. II p. 364

The Comptroller had already taken measures with the Commissioners of Burghs (in Assembly) to improve the stipend of Town Ministers (B.U.K.p. 26) and something was done towards submitting an accurate list of Ministers Readers etc so that stipends might be allocated by the Lords Modifiers.

(2) Jurisdiction to be defined, discharge of Sabbath markets and Knox had a special commission to deal with the Queen for support of the Poor.

(3) B.U.K.p. 30. Calderwood II p. 208

Traces of Kirk influence on the the Statute Book are everywhere to be observed in the enactments of the Parliament which ultimately met on June 4th 1563- Mary's First Parliament since her return. But the violent efforts of Knox and others to present Articles (1) for the full establishment of the Book of Discipline, and containing a particular attack upon women by suggesting stringent sumptuary laws estranged not only the Queen but the Nobility and Courtiers who were dependent upon the Queen's goodwill for ratification of grants of lands and pensions (2) The Nobles were afraid that the Queen might construe these articles into a personal attack upon herself and prorogue the Parliament altogether. The zealots were enraged that their whole programme was not carried out but nevertheless the completed list of Acts of this Parliament shows that a large proportion of the Kirk Articles became statutory. (3)

(1) Perhaps they were an unofficial Commission of the Assembly though there is no record of their appointment, or perhaps Knox in his position of practical dictator in the new church simply associated a few other ministers with him.

(2) cf. Moray's quarrel with Knox (C.II p.217)

(3) A.P.S.II p.539 et seq. (i) Manses and glebes were granted but the size of the glebe was left indefinite. (ii) Witchcraft was to be punishable with death both for witch and consorter. (See James VI's questions to the Edinburgh Pres. on this point) (iii) A somewhat vague law for the punishment of adultery. It was said that almost any pretext could circumvent this Act.

The Privy Council received full power to put to execution any scheme they might agree upon for the repair and upkeep of Churches and Church yards

On the points of provision and discipline a good number of the demands of the supplication of June 1562 received satisfactory answer, while the Kirk's anxiety about the poor tenants had probable a good deal to do with the Act prohibiting the ejection of "lauchfull possessouris tennentes and occupyars of Kirklands".

(1)

It seems clear likewise that the Act regulating weights and measures (A.P.S.II p.540.cap.14) refers back to the petition raised in the first Assembly (see supra). (2)

Before the end of Parliament there had taken place the famous scene between Knox and the Queen, in which he took it upon himself, "though neither Erle Lord or Baroun, yet as a profitable member of the Commonweal" publicly to criticize the question of the Queen's 'Spanish Match', and as a kind of Prime Minister of the Church to lead or rather to incite the Opposition to it. "The most part of your nobilitie are so addicted to your affectiouns that neither God's Word nor the Commoun Wealth are duellie regarded, therefore it becometh me to informe

(1) A.P.S. II.p.540. cap.13

(2) B.U.K.p.5

Perhaps it was the fear that the Burghs might lend all their wealth and influence to the Assembly that induced this Parliament to grant them the concession that five or six burgesses should always be present at any Convention for War Peace or Taxation. (A.P.S.II.542 cap.20

them of their duetie". The Queen was so incensed that it w
 was only with difficulty that she was dissuaded from
 insisting that the Lords of the Articles should deal
 with the question of his punishment.

(1)

In the Assembly of Perth 25th June 1563 though
 Parliament was but lately dissolved ,the Kirk was ready
 with several pleas for presentation to the Officers of
 State and Privy Council, mainly for the purpose of
 execution and definition of the somewhat vague Acts of
 Parliament The Comptroller the Justice Clerk and Clerk
 Register, at least were present to watch over proceedings
 in the interests of the Queen as Officers of State, and
 to give advice to the Assembly as members of the halie
 Kirk. Important questions like University Education and

(1)Knox II iv. p.388; Calderwood II p.221

(2) i.e. The appointment of judges in every province to
 try cases of adultery

- ii That Superintendents admit qualified persons to
 vacant benefices on due presentation
- iii For Union of Kirks.(contrast this with their
 later demands)
- iv For remission of the thirds to Bishops who have
 become Superintendents under the new regime.
- v.Free letters were promised by the Officers of State
 to ministers seeking restoration of manses
 at the Comptroller's expense.
 (B.U.K.p.34; C.II.p.226)

the Censorship of the Press the Assembly did not include among ^{its} ~~their~~ articles for discussion with the Privy Council and apparently at this time seemed to infer that these bel belonged naturally to its province.

(1)

By December 1563 the General Assembly had definitely begun its campaign of opposition to the Governing Civil Authority. The riot, if riot it was, over the celebration of Mass in Holyrood on August 15th 1563, and the prosecution of the leading Protestants who had attended "with twa or three mae to behold and note what persons repared to the masse" drew forth Knox's summons to the faithful to "convene to the General Assembly" with the avowed intention of defending the accused. The Assembly in fact was to be used as an open opponent of the power of the Queen and Privy Council. The Professors were rebuked for "neglecting or at least not frequenting" the conventions and Assemblies of the Kirk, which obviously Knox thought ought to have been so powerful and unanimous in the cause that their decrees should have been unquestioned. The Civil Authority in fact should have had little other function than to register and put to civil execution the enactments of the Ecclesiastical Body.

(1) Calderwood. II p.226; B.U.K.p.35

(2) The leaders were summoned to underlie the law 24 Oct. For Knox's letter see Knox. Works II.p.395-97; Calderwood. II.p.231

It was not therefore without just reason that the inner circle of the Privy Council accounted Knox's action treason, as unlawful convocation of the lieges, and his summons before Council and Convention of the Nobility⁽¹⁾ about the middle of December was virtually the only course left to the Civil Power if it was to preserve any real authority. Knox had plenty of precedent "for what convocation of the brethering hes ever bene to this day unto quhilk my pen servit not " though never as he protested on his own incentive but only at the desire of the brethren" It would seem indeed that the Assembly which he convened was ~~but~~ the ordinary half yearly meeting and was only unusual in that a much larger number than was usual was expected to be present. The vital point of course was that these "frequent" numbers were to attend for the express purpose of defying the Crown. In any case numerous "professors" who had responded to his letters were present to make up in arms and numbers what was lacking in reasoned logic⁽⁴⁾ It was their unexpected appearance at the Convention of the Nobility that by a majority vote absolved Knox, leaving him and his position in the general Assembly which did meet on December 25th stronger than ever.

(1) Knox says this Convention was summoned to give his condemnation more weight. p.399

(2) *ibid.* p.405,407

(3) *ibid.* p.397

(4) They were thronging the close and stair even to the door of the Council House

In point of fact the struggle had once more been merely a trial of strength between the party in power and the old factious and unruly Opposition who were ever "agin the Government" not on any point of principle but because they were reluctant to give recognition to the Central Authority. Religion and Knox provided good pretexts.

(1)

Practically the whole of the Privy Council was present in the Assembly, besides the great numbers of Barons Burgesses and Gentlemen, "as many as were thocht expedient for everie town and province" (2) The quarrel between Church and State was not long in revealing itself, in the debate over the ministers' petitions for stipends, and the Court probably through the medium of Lethington and Bellenden the Justice Clerk threatened to leave the ministers to obtain their stipends as best they could since they ran counter to the Civil Power in other respects. The Anti-Court or Country party on the other hand threatened in the name of the nobility barons and burghs to withhold payment of the Guard and the Papist pensions until the ministers demands were satisfied

(1) Jealousy of the power of Lethington had something to do with the way the vote went. (C.II.p.240) and the result was some slight shift in the balance of power the "Protestant Lords" holding chief place in the Council.

(2) Knox.II.p.397.

Interchange of ideas in open debate, in open Convention was something which was lacking in the Scottish Parliamentary system, and this General Assembly at least provided it, for the Civil Power and the Kirk Convention met apparently jointly and on equal terms. There was however a cleavage at some point in the proceedings for the Courtiers not withdrew into the Inner Council House, "but drew from us some of our ministers and would have them conclude suche things as were never propounded in publick Assemblie" (1) Even this early was an attempt at some kind of Commission or Privy Conference attempted. Both Court and Country Party however were included in a Commission to consider "further affirmation of the Booke of Discipline; (so quick was the Kirk to seize its opportunities); to revise the whole question and to report their opinion to the next General Assembly. There was a significant proviso that if a Parliament should intervene, this Commission should simply report to the Lords of the Articles without waiting for the Assembly's formal sanction of alterations if any they made. This is remarkable as showing the powers which the Kirk entrusted

(1) See the debate over the approbation of Knox's action. (Calderwood II.p.243)

(2) The Laird of Lundy's speech in the Assembly of June 1564 describing the attitude of the last Assembly in December 1563 (C.II.p.250; Knox II.p.422)
The outer Council ingratiated themselves with the the Kirk by promising that labourers should have their own tithes for a reasonable composition. (B.U.K.p.41)

to laymen(Privy Councillors) some of whom were in opposition to not a few of her schemes. The explanation must be that the ministers who were often on some business or other in the Capital, and particularly Knox, would keep a wary eye upon their activities.

(1)

Both factions attended the Assembly of June 1564. Had not the ministers been such vehement partizans the element of free debate might have continued and the Convention of the Kirk would have become the true Parliament of Scotland for at this meeting there is evidence that the "greit part of the Nobylitie of those that ar callit Protestantes convenit; sum for assistance of the mynisteris (in their attack upon the Court) and sum to accuse thame". Intercommunication between the

(2).

Civil and Ecclesiastical Powers was by no means on the old inter-dependent footing. The Privy Council and Court Party did not attend in the first session, and the Kirk deemed it necessary to send a delegation to them to urge

(1) Their names were Marischal, Ruthven, Maitland, Commendator of Kilwinning, Bishop Of Orkney, Clerk Register (McGill) Justice Clerk (Bellenden) Mr Henry Balnaves David Forret and George Buchanan (B.U.K.p.41)

(2) Knox.II.p.421

to urge their adherence. Although they agreed to this and presented themselves on the following day they did not sit for long in the Assembly as ordinary members but withdrew themselves as they had done in the previous Assembly into the Inner Council House, where they remained to await the presentation of petitions and to grant conference if desired. When Conference was not sought (1) of them, they sent a messenger "requyring the Superintendents and sum of the leirnit ministeris to confer", but this the Assembly refused to permit, and insisted that the Privy Council should meet with the rest of the Kirk (the Assembly) as members of the body politic. They repudiated for some time any attempt to draw the Kirk to a dimission of its authority to a private conference involving any final conclusion, and when at last they were forced to compromise they expressly stated in the commission granted to the Superintendents and leading ministers, that nothing should be concluded without the consent and advice of the full meeting. Nevertheless the Civil Authority had established (2) the fact that it was a Power apart, which had to be considered as an entity, and whose consent was not to be assumed or taken for granted, though individuals members

(1) Knox.II.p.423

(2) ibid.,p.424; B.U.K.p.47

of Council might use their vote as members of the Universal Kirk. This system of private conference was a danger, and though repudiated now, it was to have an insidious growth in the very constitution of the Assembly itself. This particular conference really resolved itself into a lengthy debate between Knox and Lethington on the question of public pulpit censures of the Queen and the problem of the Mass. In spite of the proviso it was insisted that the vote must be taken, for the Lords of Privy Council refused to recognize the Assembly as the ultimate authority. Knox protested vehemently, and Craig insisted that whatever the decision of the Conference it should in no way prejudice the vote of the full meeting. Feeling ran so high that all attempts to
(1) obtain a majority vote were given up and the burning question was referred to the advice of Calvin himself. (2) But though Knox obviously considered his "flyting" in the Privy Conference the chief matter of importance, there were other communications between Kirk and Civil Power which were less theatrical and more productive of tangible results. A commission consisting entirely of

(1) This is to be compared with the struggle in 1617 and 1618 over the vote in Privy Conference on the Five Articles.

(2) Knox. II. p. 460

laymen, chiefly lairds appointed on some kind of attempted representative system was ~~ordained~~ to repair to the Privy Council with a list of petitions or Articles. ⁽¹⁾ But it seems doubtful whether they had opportunity to carry out their function, for the Queen sent down in the same session four leading members of the Privy Council, ⁽²⁾ to learn what was to be petitioned. They urged first of all that amicable relations between Queen and Assembly ⁽³⁾ (somewhat disturbed by the preceding private conference) should be restored by resolving their articles (a) into a declaration of good faith and obedience to the Crown, and (b) an undertaking entered into by both Council delegates and the Kirk to maintain the order of religion as it existed on her Majesty's arrival. The Kirk by agreeing to these proposals accepted the Council as an intermediary and formal and precise articles seem to have been dropped in favour of the somewhat vague promises of the four politicians. ⁽⁴⁾

-
- (1) For Fife- Lundie and Abbotshall; for Lothian- Spott and Elphinstone; for the West-Carnall, Kerse and Kelwood for the South-Wedderburn and Fadownsyde; for Galloway Garlies and Ma.... and Mr G. Gordon; for Angus- the Provost of Dundee; for the North -the Laird of Craig
- (2) For confirmation of religion, abolition of the Mass; for assured livings for ministers; and punishment of transgressors against religion.
- (3) Argyle, Moray, Glencairn, Lethington
- (4) Something certainly has been done in execution of these. e.g. Decree prohibiting pensions out of the thirds (P.C.R.I. p. 287 8th October.)

Upom the approach of the General Assembly (25th December 1564) and of the Parliament on the 15th of the same month, the Privy Council roused itself to activity, with the intention apparently of preventing a repetition of the Kirk's demands, and passed decrees enforcing the existing acts of Parliament (James IV) against Sabbath markets, and arranging that they should be delayed till the Monday, Acts against immorality at length made the somewhat vague acts of the Parliament effective to some extent by a graduated scale of fines, but it is noteworthy that the whole of the execution of these acts and the profits of Justice were given to the Civil Power, and no mention was made of the Kirk's share in proceedings. (1) Probably these acts were prepared with the intention of having them ratified in the succeeding Parliament, but only a fragment of its proceedings has survived and from other accounts we learn that little was done save to reinstate Lennox and confirm infeftments in Kirk Lands. Articles (2) were given in to the Parliament on behalf of the Church for the abolition of the Mass and punishment of vice. (3) Who were these representatives of the Kirk who presented petitions in the name of the whole body, to the Lords of

(1) R.P.C. I.p.296-7

(2) Knox.II.p.469

(3) Knox.II.p.471 "but there was little thing granted save that it was statute that scandalous livers should be punished first by prison and then publikly shewen unto the people with ignominy."

the Articles, for no appointment was made in the previous Assembly and the next Assembly was not to meet until the 25th of the month. It was probably John Knox and his 'familiar' who undertook the duty making use of his wide Commission as Father of the Scottish Church.

When the Assembly met therefore on the 25th, the Privy Council maintained its policy of remaining apart and once more two Lairds as Commissioners from the Church had to request its concurrence. When they at length sent some of their number, the Assembly was ready with its proposals and petitions which it presented to them for presentation to the Queen. These articles were rather more precise than formerly and consisted of seven demands "the answer of every one of the particulars the Generall Assemblies humble requirit" (1) The Kirk still uses the Privy Council as intermediary and does not address itself directly to the Queen. (2)

(1) They were on two topics, the lack of execution of laws against the Mass etc. and secondly on the question of provision for the new church and its officers.

- (a) Payment of arrears of stipend and arrangements for the future.
- (b) Appointment of more Superintendents
- (c) Punishment of violence towards ministers
- (d) The question of vacant benefices
- (e) Definition as to the position with regard to manses and glebes
- (f) Acts of Parliament for repair of churches to be put to execution.

(B.U.K.p.53)

(2) *ibid.*

There is no indication of what immediate response these petitions met with. Probably they were politely disregarded for similar ~~requests~~ by the advice of the most learned in Edinburgh" were presented to the Queen by the Superintendents of Lothian and Glasgow. (1)

While they were an accepted part of the Church Government the Superintendents continued to exercise the function of a kind of executive of the whole Kirk and almost always ~~shared~~ with Knox the leadership. The Kirk and its demands were infact at this time simply used by the Moray-Argyle party as planks in its political platform, and indeed reformation of religion was a good excuse for the convening of any large concourse of nobility. This (2)

party meeting some ministers and certainly the Superintendents attended, and when the Queen summoned all the Lords and Barons present to a Convention of Nobility of her own in Stirling, she wrote also for the Superintendents and "other learned men" (3)

(1) Knox.II.Bk.v.p.475 chiefly on points of adultery and idolatry.

(2) i.e. Moray and his day of law with Bothwell.

"There assisted my Lord of Murray, the Earles of Argyle Glencairn and Crawford with great numbers, and many Lords and Barons who for the most part conveyed the same afternoon to treat and consult for the maintaining of religion. (Knox.p.479)

(3) For consenting to her marriage with Darnley.

but (See P.C.R.I.p.335 15th May 1565 They agreed upon a Parliament on 20th July but this was later prorogued.)

The meeting (Convention of Nobility) 10th June (1)
 it was said was to settle all points of religion. Moray
 therefore extended its sphere and character "by sending
 to all the principall churches advertiseing them of the
 matter and desiring them to advise and send the most able
 able men in learning and reputation to keep the day". (2)
 Thus the Convention of Nobility would be augmented by
 large numbers of representatives of congregations, -in
 fact a joint Civil-Ecclesiastical Assembly. Under the
 circumstances the Queen could not afford to have her hand
 forced, and prorogued the meeting on the pretext that the
 Papists might come too and tumults ensue. Within 12 days
 however a fresh convention was summoned to Perth (23rd
 June) only 2 days before the General Assembly met in
 Edinburgh. It was probably hoped that the Nobles would
 attend the Civil and neglect the Kirk Convention. The
 Lords in opposition to the Court policy did attend, and
 were speedily made use of by the Assembly to present the (3)
 case of the Kirk as their own. But they were too anxious
 to return to the Royal favour to incriminate themselves
 too deeply, and the formal articles of the Church were
 entrusted to a delegation of four lairds and one burgess.

(1) P.C.R. I. p336

(2) Knox. p.483

(3) Argyle and Glencairn with a great company of Lords and
 Barons and others assisted the church. (K. II. p.484)
 The Queen was thoroughly alarmed at this counter
 convention which associated itself with the Kirk
 interests.

Lundie, Cunninghamhead, Grange (Durham), Hume of Spott and James Baron Burgess of Edinburgh. Their instructions were to report before the dissolution of the Assembly if possible but otherwise to report to the Session of Edinburgh who in turn would inform the Superintendents. The duty of receiving their account of their doings eventually devolved upon Knox alone who had instructions to advertise the Superintendents of the result as well as of anything untoward which might fall out before the next Assembly. (B.U.K.p.64) It is noteworthy that in these articles the Kirk stresses the necessity of having their rights established by formal Act of Parliament, They no longer place much reliance upon the simple proclamation of the Privy Council, nor the vague and general promises of the Queen.

(1)

(1) The Articles were precise.

- A. Abolition of the Mass for subjects and sovereign alike; the people to be commanded to attend church as they were in the days of Papistry
AND THESE TO BE SANCTIONED BY PARLIAMENT WITH CONSENT OF ESTATES AND RATIFIED BY THE QUEEN.
- B. Provision Stipends for ministers in the parish in which they serve; benefices as they fall vacant to be given to ministers; no pluralities; glebes and manse to be apportioned; Kirks repaired;
AND A LAW MADE EMBRACING ALL THESE POINTS
- C. Education All teachers to be tried as to religion by the Superintendent
- D. Support of the Poor Restoration of Hospitals; Rents of Friars lands to be used for Poor and the Schools
- E. Punishment of Vice including idolatry blasphemy Sabbath Breaking etc and criminal offences such as murder slaughter by a special Commission in each Province .AND THIS TO BE DONE BY ACT OF PARLIAMENT
- F. Some order to be taken for relief of the poor labourer from rigorous exaction of his tithes.

Pending Queen Mary's answer ,ministers were forbidden to change their charge, but that answer was long in coming. The commissioners went to Perth, and presented their requests but the Queen departed for Dunkeld and they perforce had to follow. The Council was not however with her and she refused to make any decision in Kirk affairs without them, bidding the Kirk delegates return to Edinburgh till the Council met. Thus the question was not really considered until August 21st. By that time the Opposition Lords were in flight, and the Queen had scored a signal victory. Had it been otherwise she would have been compelled to modify her attitude to the Church. Two at least of the General Assembly's commissioners had joined with the rebels when they came to Edinburgh, where however they got little support in spite of their slogan that their cause was that of religion. (2)

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- (1) The Darnley marriage had taken place and after the meeting at Ayr 12th August the chief Protestant Lords were practically in open rebellion. Darnley to take from the Lords the pretext of religion had attended sermon to hear John Knox. The latter was too much of a partizan to take the reasonable course. (?nox II p.497)
- (2) They were Grange and Cunninghamhead. (ibid. p.499) Lundie also was suspect, while Christeson the minister of Dundee was also involved having been in communication with the Lords and urged the professors to assist them. (K.II.p.504)

The King and Queen by proclamation tried to dispel any confusion of the cause of the rebels with that of the General Kirk, although the "Articles and Propoaitions" passing between the Government and the leaders certainly embodied the main points of the Articles submitted by the General Assembly through its commissioners which the Queen had shelved. The political aspect had so completely (1) overshadowed the ecclesiastical that the acute problem of the provision of ministers had been forgotten, and the half yearly meeting of the ministers of Lothian, propounded yet another petition on this head. This petition was presented by Spottiswoode and David Lindsay, to the King and Queen but with as little effect as before.

(2)

It was therefore under these circumstances that the General Assembly met in December 1565

(1) Knox. II. p. 504; P.C.R. p. 356. 22nd August; and 369 3rd Sept.

The recalcitrant Lords were demanding besides the religious claims, constitutional changes involving government by a council nominated by themselves i.e. "the counsell and advice of the Nobility and ancient blood of the same". This meant that democracy as represented in the General Assembly was allied with Conservatism and feudalism.

The Lords demands were A. (i) Abolition of the Mass (ii) rooting out of idolatry (iii) Establishment of the true religion. B. That the affairs of the realm be governed by advice of the true nobility. (Knox. II. p. 508)

(2) Knox. II. p. 511 The whole system had been overturned by the change of Comptroller for Pittarrow was in rebellion

Its chief Lords of the Congregation were denounced rebels
 its articles had received unsatisfactory answers, and its
 ministers were supplicants for bare subsistence. The
 Queen's answers were considered so valueless that Row
 was commissioned to prepare "Answers to the Answers" (1)
 In addition a general supplication to Queen and Council (2)
 on the question of a detailed assignation for ministers
 stipends, and for protection of the ministers from violence
 was presented by the Lord Lindsay and David Murray (brother
 of the Laird of Balvaird). In point of fact however the
 Kirk in the absence of its lay leaders from the Council
 could have expected little. Those Protestants and those
 still calling themselves by that name, who still remained
 in power certainly put in an appearance at the Assembly's
 meetings The principal articles the Answers to the
 (3)

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- (1) Knox could not have been very sure of his ground or
 he would have made use of his extraordinary powers to
 advertise the faithful. Andrew Melville under similar
 circumstances summoned conventions of the godly to
 deal with the political situation.
- (2) B.U.K.p.68 (i) For satisfaction of the Queen and pers:
 :uasion towards religion they offered conference
 (ii) They solemnly advised her in her foreign relations
 to refrain from treaty with France (iii) In the matter
 of presentations to benefices while reserving the right
 of the patron to present they insisted upon the church's
 right to examine the presentee. (iv) As to the pro:
 :vision of the ministers they urged her not to commit
 sacrilege by retaining part of the benefices in her own
 hand, and complained that the assignations made were too
 vague; they insisted that the teinds belonged only to
 the church, and that in allocation of the thirds the
 ministers the poor and Education ought first to be
 served before the Queen claimed her portion.
- (3) Morton (Chancellor) Mar, Lybdsay, Lethington, and some barons
 and gentlemen attended (Knox.II.p.515) No mention is made
 of these in B.U.K.

Answers by two Superintendents (Fife and Lothian) and by two ministers Row and David Lindsay, of whom Row was the spokesman in the interview with the King and Queen. Thus the one petition was presented by two laymen only and the other by four ministers, and since both involved the whole question of the ministers stipends it must have been hoped that if the Queen disregarded the preachers she might listen with more attention to the opinions of two of her nobles. In any case however the old policy of delay was pursued and no conclusion was reached.

Though a Parliament, in which Rizzio was the leading spirit met in March (7th) there is no record of the Kirk or its delegates presenting any petitions, and whatever the Royal intentions may have been all were forgotten in the struggles first for the attainment of the banished lords and secondly in the sudden revolution occasioned by the murder of Rizzio (9th March) of complicity in which the leaders of the Kirk were not entirely innocent.

(1)

(2) The General Assembly of June 1566

as a result of this revolution was in a very much stronger position than its predecessor. "Earls Lords

(1) Diurnal of Occurrents p. 89; C. II. p. 312; Knox II. p. 520

(2) cf. The Bond for Religion and Liberty coupled with the Band to murder the villain Davie. Knox. II. p. 521
In James' struggle with the Melvilles it was quoted that Knox approved the murder but only in so far as it was the work of God!

and Barons of the Privy Council" attended, but Morton
 (1)
 Lyndsay and Ruthven are conspicuously absent being them:
 selves rebels in turn. The old petitions and the Answers to the
 Answers were again the subject of representations to the
 Queen. It is the lay lords of the Privy Council who
 receive these from the Assembly and carry them to the
 Queen. A new claim was added however in the petition
 entrusted to some brethren to address the Lords of Privy
 Council and Session that no excommunicate person have any
 liberty of civil process until they were reconciled to
 the church. The Assembly finding definition of its
 (2)
 powers denied was attempting to gain for its decrees at
 least as much respect as the sentence of excommunication
 under Papistry had had.

It was probably due to Bothwell's
 influence that the Queen was induced to grant the partic:
 ular assignation presented by the Assembly of December
 1566. The Assembly while approving this assignation as
 (3)
 a temporary expedient, claimed that it was without
 derogation of the Kirk's right to all teinds. The unruly
 Lairds of Kyle would fain have persuaded the Assembly that
 the whole fruits ought to be retained in the hands of the
 "Professors" until the Government either by Council or

(1) Huntly, Argyle Bishop of Galloway, Bishop of Orkney,
 Comm. of Lindores, Balfour of Pittendreich. (B.U.K.p.77)

(2) *ibid.* p.77; C.II.p.322. Nothing immediate could be done
 since the Queen was still in child bed.

(3) B.U.K.p.82; Knox.p.537; cf. Connell on Tithes p.94
 P.C.R.I.p.494 amounting to £10000 and 400 chalders
 collected by the Kirk's own collectors.

Parliament made suitable provision for the ministers.

In the Assembly itself commissioners were appointed to deal after the conclusion of the meeting, with the Queen, and further these demands. These commissioners were three in number, The Bishop of Galloway, a Privy Councillor but also an official of the new Kirk; the Superintendent of Lothian, and John Row. The negotiations which these carried on with the Queen at Stirling were on a more amicable basis and they obtained the gift of altarages in towns for the support of the ministry.

(2)

Subsequent negotiations between Knox and the Privy Council on the point of the restoration of the jurisdiction of the Archbishop of St. Andrews could not have been so well received. He not only laid a formal supplication before them but in addition he issued a fiery letter to the Professors in General informing them of the terms of this supplication. This type of appeal to the multitude was continually vitiating the perfectly constitutional relations between Assembly and Council, or Assembly and Parliament. The appeal to force was not in effect an appeal to the people of Scotland but to the Lairds and barons

(1) Knox. II. p. 539

(2) P.C.R. p. 497. Jan. 10th 1567; Knox. p. 539

(3) Knox. II p. 540.

who with their feudal retainers formed the most formidable part of the Professors. But all these schemes for and against the church were of little real value in the unsettled state of the country.

In the Parliament of April 1567 held in the interval between the death of Darnley and the marriage with Bothwell, although some representations were made to the Queen, by the "commissioners of the Kirk" she denied them audience. It would almost seem that there was some sort of standing committee for these relations with Queen and Parliament but there is little to indicate who they were or how they were appointed. The inference is that Knox's extraordinary powers included these negotiations and that he probably associated with himself the Superintendents and the more prominent ministers of the adjacent counties.

(1)

By the time the Assembly met in June the Queen was in Lochleven, and practically a prisoner. The Kirk was now in the same camp as the Lords of the

(1) Calderwood. II. p. 351

(2) This Parliament passed an Act obviously to placate the Kirk and the ministry at this critical juncture, confirming the state of religion as it was at the Queen's arrival, and abrogating all laws and acts against the Protestant Religion.
(see. A.P.S. II. p. 548. cap. 2

like Morton
 Opposition, even those who had participated in the murder
 of the King, and urgently required close intercommunication
 with those who had constituted themselves the Privy
 Council. These Lords were asked to convene with the Kirk
 "for heiring of sick articles as salbe thoght good for the
 establishing of Gods word ,the true religion and support:
 :ing of the ministrie within the realme." The result of
 this conclave was the postponement of the General Assembly⁽¹⁾
 for a month, while the influence of the Kirk was harnessed
 in an attempt to bring in the Hamilton Party and those
 who had remained neutral. The Circular letter though⁽²⁾
 addressed to all the Nobility was particularly written
 with the object of inducing the probable opponents of
 the Kirk and the Lords to lay aside their quarrels and
 to attend the July Assembly along with all Protestants.
 Had the leaders of the Church been less involved with the
 Rebel Lords there was opportunity here for a non-party
 convention, but the letter had but little effect in this
 direction, and the Queen's or Hamilton party simply remained
 away, and the Assembly like most Scottish conventions

(1) B.U.K.p.93 The Lords of Privy Council were Morton Mar
 Atholl Glencairn Hume Sempill Sanquhar, Ochiltree (BCRp.523
 on 21 June) The laird of Dun and Barganie were sent to
 ask them to attend.

(2) Petrie Part 3.p.355 says that the Assembly was induced
 to write these missives and commissions, by the noblemen
 who had risen in defence of the young prince, because
 "the Hamiltons and others had declared themselves for the
 Queen and many were Neuters"

a one party meeting. It showed however that the Kirk was
 (1)
 a valuable ally for bringing about a mass meeting of the
 party, and the Lords indeed in return for this enormous
 power of influence and propaganda were willing to promise
 almost anything. There was no doubt at all in the minds
 of the Queen's party as to the impartial nature of the
 General Assembly. They were indignant indeed that a party
 numerically inferior to their own should presume through
 the Assembly to summon them. They apparently did not
 distinguish between the Assembly of the Godly of the
 Kirk and the Convention of Nobility Barons and Burghs
 which was to meet at the same time.

(2)

In the July Assembly intercommunication
 between Church and State was duly provided for, and the
 Articles to be sought were formulated by a committee
 composed of lay representatives from each shire elected
 by laymen, and a fit proportion of ministers appointed by
 the clergy. These articles were simply a recitation of the
 (3)
 demands which the Church had been making ever since
 Mary's arrival in Scotland, but there were several

(1) cf. Knox. II. p. 563

(2) see the letters of excuse B.U.K. p. 102. Of the 37
 noblemen who received individual letters only three
 seem to have attended. cf. also C. II. p. 372

(3) B.U.K. p. 100.

innovations which showed an an increasing claim on the part of the church to interfere in matters of Civil Government, coupled with a tendency to rely upon Parliament as the final authority in establishing ecclesiastical affairs. They asked for ratification of religion particularly the act of August 1560 and a recognition of that Reformation Parliament as lawful.

- (ii) That the ministers stipends and charity towards poor labourers be the first charge upon the thirds, while, pending a better settlement, they asked for ratification of what had already been granted e.g. the grant of benefices under 300merks and the particular assignments, which so far had received little execution.
- (iii) They demanded that in the first lawful Parliament the Kirk should be put in full possession of her patrimony, and that Parliamentary consideration be given to the case of the poor labourer and his relief from extortion of teind.
- (iv) They claimed the right to examine through the Superintendent all having charge of education.
- (v) They repeated their old demand for the Punishment of vice which they recommended to the consideration of Parliament. They proceeded to recommend measures to those in power i.e. Bands for the punishment of the King's murderers, and for defence of the young prince, for whose education they also had a care, and they

laid down as a dictum that henceforth all Scottish sovereigns must take an oath of allegiance to the Protestant religion. They concluded these demands with a request for a band among the noblemen to destroy idolatry and its monuments and firmly to establish the true religion.

(1)

These articles were presented on 25th July in the 5th Session to the Convention of Nobility Barons and Burgesses which was meeting at the same time in the Tolbooth to consider the question of the Queen's abdication. The General Assembly was itself meeting in the Upper Tolbooth. This must mean that the meeting was virtually a joint Civil Ecclesiastical Convention for this session, (2) or that when the Church demands were brought down to the lower chamber the lay element in the Assembly simply transferred itself to the Civil Convention and accepted in the one capacity what it had helped to prepare in another. For the Articles of the Kirk were registered in their entirety in the Council Books. The personnel of the lay element (3) in the Assembly was practically identical with that of the Convention, and it is probable they simply considered (4)

(1) B.U.K.p. 106

(2) *ibid.*

(3) P.C.R.I.p. 534

(4) e.g. John Erskine of Dun was Provost of Montrose and as such present in Convention, while as Superintendent of Angus he was a leader also in the General Assembly

considered on equal terms both civil and ecclesiastical business. It was the lay element in this General Assembly which seemed to carry all before it e.g. in the preparation of the articles. There was however in its constitution no room for a constitutional opposition. The whole of the Hamilton faction though confident that they outnumbered the Rebel Lords ~~dis~~dained to attend. If the Assembly was the National Body that it has been claimed to be, it ought to have comprised all Protestants irrespective of political opinion. The Kirk did not seem to consider the point of whether this lay element had sufficient commission or not from the kirks which they theoretically represented. Scotland of the day was too accustomed to party feud and Sectional Conventions for the wolf and the lamb to lie down together in the fold of the General Assembly. (1) Petrie states that these Articles were prepared by the (2) Lords and presented to the General Assembly for their approval. His assertion is almost certainly wrong but it adds further evidence to the hypothesis that Convention and Assembly were practically the same meeting.

Thus, whoever was responsible for its initiation the Church was ready with its policy whenever the Lawful Parliament should "hold".

(1) Another reason of course for their absence might be that the vote of the ministers and their incendiary propaganda might have ~~over~~thrown any majority that the Queen's party claimed.

(2) Petrie. Part. 3. p. 355

The extraordinarily close relationship between Convention (or Parliament) and the Assembly at this time is further exemplified in the curious convention held ten days before the actual General Assembly met (on the 25 December). The first day of Parliament fell on the 15th December. The Assembly records give account of a conference of some of the brethren on the 24th December, which was to be without prejudice to any conclusion arrived at by the full General Assembly. This was obviously a preparatory meeting or an informal colloquy with those of the Nobility who were present. The meeting on 15th December is surely but the climax of the conference which had been going on from 1-6 December whose deliberations on Kirk and burghal affairs are printed in the Acts of Parliament. The truth of the matter seems to be contained in the mutilated letter A.P.S. III.p.35. The Lords Regent with advice of the Privy Council wrote to certain nominated barons and commissioners of Burghs to convene in Edinburgh on the 20th November to consider Articles to be proposed in Parliament. The business in hand included the scheme for the re-introduction of the Estate of the Barons in to Parliament. The meeting was not however well attended and upon the request of the barons the Council nominated other barons and gave permission to the meeting to co-opt others from the gentlemen present in the town. The meeting then invited some ministers to be present. Knox, Spottiswood Craig, Row and David Lyndsay, Erskine of Dun was taking a prominent part in the conference as a civil representative.

(1) see.APS.III.p.3

The appointment of these five ministers was formally sanctioned so that now Barons burgesses and Ministers were empowered to confer jointly. The sederunt therefore of 3rd December shows the attendance of 8 lairds, 7 burgesses and 4 ministers, (1) They were all likely to be members also of the General Assembly and the Articles which they prepared represented the entire policy of the Church in terms reminiscent of the decisions of July. Such as concerned the Church were 20 in number but the confusion incident upon joint preparation is everywhere apparent. With the addition of the Lords these might very readily become the Lords Articles who certainly returned favourable opinions on most of their suggestions. (2)

- (1) Dun. Leslie of Balquhane, Craigmillar, Whittingham, Abbotshall Lauriston, Fairlie of Braid, Campbell of Kinzeancleuch; Burgesses. Provost of Aberdeen, Patrick Murray for Perth, Preston and Barron for Edinburgh, Richard Blyth for Dundee, Monipenny for Perth, David Mar for Aberdeen
- (2) Ratification of avts of 1560, abolition of Papal Jurisdiction and annulment of all acts in support of idolatry. (Passed)
 - i. Only professing Protestants to hold benefice or Eccles. function.
 - ii. Kirk jurisdiction to be established. (passed. p.24 cap.12
 - iv. and a committee appointed to define it
 - iv. Presentation by patron within 3 months (altered in the Act to 6) examination and admission by the Church. (A.P.23)
 - v. Cancellation of gifts of benefices with cure of souls to non. ecclesiastical persons
 - vi. Dissolution of Abbacies. (The Articles added that teinds were to go to the Kirk but the temporal lands to be disposed by Parliament
 - vii. Order taken to ensure that the thirds are paid for the provision of the ministry.
 - viii. Order for plurality of benefices.
 - ix. Provision for the Poor Education and the Labourer (Prebendaries annexed to Bursars. A.P.p.25) but the poor and the labourer were referred to the Estates by the Articles.

After the 3rd December the ministers do not appear in the sederunts recorded in the Acts of Parliament and the same barons and burgesses went on to consider Articles for the Common Weal among which they included the question of the Religious Oath (passed.A.P.p.23 cap.24) and the Commissars whose jurisdiction was to be considered at the same time as that of the Kirk. Several of the Kirk articles in the same (1)

Contd.

- x. Only qualified men and of good conversation were to be advanced to the ministry. (referred to the General Assembly by the Articles)
 - xi. Appointment of Superintendents and the means for securing their authority were referred by the Articles or Conference (the whole system is vague) to the Estates for authorization of the office and jurisdiction of the Superintendent.
 - xii. That order be taken for the provision of the ministers and the method of collecting their dues. Those who prepared these articles offered themselves for conference with the Lords and the result was an agreement that until the Kirk get its full patrimony the whole thirds should be assigned to be collected by the Kirk's own Collectors. The Acts of Parliament on the point agreed that ministers be first served by their collectors appointed by the Kirk with advice of the Regent, and the Assembly lost no time in nominating these (31 Dec. B.U.K.p.117). The surplus was to go to the King. (A.P.p.24.cap.10)
 - xiii. Definition of the Act for manse and glebes
 - xiv. Punishment of Adultery was referred to a visandum by the Parliament (A.P.30.
 - xv. No official of justice or notary to be other than Protestant. (A.P.p.24 cap.9)
-
- xvi. Citizens forbidden to convene without licence of the Provost
 - xvii. All schools and colleges to be reformed and only those admitted by the Superintendent to teach (A.P.p.24 cap.11
 - xviii. Ordinances to be made for keeping the Sabbath punishment of immorality (A.P.p.25 cap 14, p.26.15) to be ratified and judges appointed
 - xix. Ordinances for restraint of the poor to their own parishes to be reenacted
 - xx Ratification of acts for repair of the Kirks.

way reflect the civil influence e.g. the xvth. which might be more fittingly be stated under "the Commonweal of Burrowis" (A.P.p.41). Weight and measures which the first Assembly had considered were grouped under the Burghs demands, while the gift of altarages was also considered in the articles of the Third Estate.

This pre-conference particularly with its relation to the baronial influence shows that although the Lairds were not technically an Estate in Parliament their power, especially when linked with that of the ministry in the Assembly was something to be reckoned with and it is significant that the movement towards representation took place in this conference in which the interest of the Church was strong. The Barons had felt their consciousness as an Estate first of all in the business of the Assembly.

Now although Knox and the other four had been in Conference since first December the Convention of the Brethren before the Assembly only begins its record on the 15th December. Knox and the others probably submitted to that ecclesiastical convention the results of the Joint Conference so far as they concerned the Kirk. These conventions and conferences must have gone on before the election of the Lords Articles, and afterwards as well. Another meeting of the Kirk

(1) The Conventioun of the brethren haldin in Edinburgh the 15 of December 1567 befor the General Assemblie of the haill Kirk to begin the 25. First were nominat and chosen for every province certaine brethren to reason and confer upon sick things as appeirandly should be necessar for settling forward the affairs of the Kirk. B.U.K.p.111

Convention met after the main acts of Parliament had become law (20th Dec.) to define their attitude to immorality and the method of delation to the civil magistrate. The situatio therefore would seem to be that pre conferences of clergy nobility barons and burgesses took place before the appointment of the Lords Articles, and probably each met as a separtate estate between the election day, and the final riding and confirmation of the Articles decisions. The ministers held their meetings as one of the Estates of Parliament, a position which they later repudiated in the struggles with the Bishops. The General Assembly according to their view must be more than merely one of the Estates for it comprised all Estates of the Realm if its lay element responded to its summons.

The Parliament did not dissolve however until the 29th of December. On the 25th the General Assembly began its formal sittings, and proceeded to assist the civil Power in the execution of the acts already passed. A standing committee consisting of Officers of State, Bishops and Commendators, Lords of Parliament (16) and 6 Provosts of Burghs all of whom were lairds, had been appointed to continue the business of Parliament and the Assembly therefore had its communications with them.

(1) A.P.S.II.p.30 cap.25. Among their business was included the article on altarages.

A separate committee had been appointed to consider the ecclesiastical jurisdiction which included those who might be considered experts in both Civil and Church Law. Balfour (Prior of Pittenweem) Ker, Commendator of Newbottle, The Lords Privy Seal, McGill the Clerk Register Secretary Maitland, Bellenden the Justice Clerk, and for the ecclesiastical side Knox. Craig, Lyndsay, Erskine of Dun ⁽¹⁾ Superintendent of Angus) Spottiswoode Superintendent of Lothian. The Assembly in its second session added to Thomas Macalzean a member of the Court of Session and a prominent Edinburgh elder and three other ministers Borthwick Row and George Hay the minister to the Privy Council; and in the following session gave an opportunity to its allies the lairds to gain experience in national and Parliamentary business, by appointing The Lairds of Braid, Whittingham and Elphinstone ⁽²⁾ (along with two other ecclesiastics) to discuss the whole problem with the Parliamentary committee. Besides this the completed jurisdiction committee had power "for decision of questions that may occur in the meantime" which of course would involve dealings with the "Standing committee" or the Privy Council, and a duration extending beyond the session of Assembly. They were therefore a kind of Privy Council of the Kirk in commission ~~similar to the Civil Body~~

(1) A.P.S.II.P.24.cap.12

(2) B.U.K.p.113 Note the position of Erskine of Dun a member of the standing committee and also a leader in the Church committee.

In the troublous times these appointments bore no result and when the Assembly next met on July 1st 1568 political affairs were in a parlous state. Although the Queen's army had been defeated her party was still strong and she had secret friends even among the Regent's personal entourage. (1) Nevertheless the Kirk was ready with its demands, which were directed solely to the Regent although the Parliament was just about to meet. These demands were presented by the Superintendents of Lothian Angus and Fife, two ministers Craig and Row, and the Laird of Barganie. Their complaints (2) were on the old lines, disappointment with stipends, for the old assignments inspite of the late act still stood although the Kirk Collectors were now in force. (3) The thirds' did not yield enough and it was thought heinous that the Royal expenses should have to be borne by the ministers' third while the "auld possessors" had their two thirds free of burdens. The Kirk suggested that these expenses ought to be transferred so that any surplus from the Ministers Third might be used for support not of the Crown but of the Poor and schools. The Regent and Council in their reply made no direct reference to the demand but gave instructions for the horning of those who refused to pay but tacitly inferred that the Crown had still first claim to any surplus

(1) It was perhaps fear of this even in the ranks of the Assembly itself which induced the Kirk to define in some measure who should have vote in Assembly. B.U.K.P. 124

(2) B.U.K.p. 125

(3) Connell on Tithes. I.p. 95

For ~~an~~ augmentation of stipends according to the Kirk's 7th demand a committee of three was appointed to meet for conference with Kirk delegates. To other minor complaints e.g. vacant benefices in the Regent's presentation and for a reform of the College of Aberdeen, the Regent gave prompt replies but in matters affecting the revenue which in Scotland was always so miserably inadequate, he was wary of committing himself. He did nothing towards appointing additional Superintendents and advised the Kirk to continue their practice of temporary commissioners for the same purpose. The futility of the standing committees was only too clearly evidenced. No meeting had been held at all and the definition of the ecclesiastical jurisdiction was as far away as ever. The Regent however undertook to summon a meeting of the Parliamentary committee on 8th August before the Parliament met on the 16th. But the Parliament when it did meet was too busy forfeiting the Hamilton faction to have any time for Kirk Affairs.

Plague and storm played a part in the postponement of the Assembly of December 1568 but it was also felt that the resolutions of the Assembly meeting by itself were of little value if the Nobility Parliament or Privy Council were not in attendance to give their decrees civil ratification. When it did meet for business on February 25

(1) B.U.K.p.129

(2) "That his grace wald cause sick as are appointed of the Council conveye with them that ar appointit of the Kirk touching the jurisdiction of the samr to decide therein that tyme and place may be condiscendit upon.....before the Parliament. BUK.128

(3) ibid.p.133

the intercommunication between the Regent and the Kirk was particularly close. They consulted him on several points of policy. In particular did the Kirk attempt to act as mediator⁽¹⁾ between the two factions but nothing that was done was without the Regent's consent even to the extent of his censoring the letter which they issued to the malcontents. The list of grievances which they produced⁽²⁾ repeated the demands of previous years. It was manifestly unfair they said that those holding benefices should bear no other burden after they had paid the third, some obligation for the support of the poor at least ought to be put upon them. All the complaints as to chopping and changing benefices and pluralities showed that under the new regime the ministry had as great a struggle as before for the Kirk Patrimony. In particular they said the Kirk Collectors obtained little obedience in their demands for payment. The Kirk was experiencing the old weakness of Scottish Statutes-the lack of means of execution and administration. Since the civil hornning seemed to be by no means efficacious they asked that their own highest censure excommunication should receive due respect and that those contemning it should be civilly punished.

(1) e.g. Huntly's refusal to receive the Kirk Collectors in his bounds, and the letter sent to the Kirk by Chatelherault (B.U.K.P. 134)

(2) B.U.K.p. 140 Spottiswood Winram and Row went to the Regent to know his pleasure. Then at his Grace's command to confer with Chatelherault and the nobility with him "and by all means possible to reconcile them to the obedience of the King's Majesty and his Regent."

As formerly they demanded justice upon malefactors and immoral persons. On previous occasions the Regent had referred them to the Justice Clerk, but such delegation of authority was of little effect, and they asked that their own jurisdiction might be defined so that they might deal with such crimes in their own province.

(1)

Once more when the Assembly met in the following July (1569) the Kirk prepared petitions to be laid before the Convention of Estates which met in Perth on the 25th. The Regent himself by a representative proposed certain heads to the Assembly asking for information on jurisdiction and an interchange of opinion on both sides was freely allowed. Money values were of course not forgotten. The Regent asked for a definite sum to be allocated to him out of the third and there was a threat implied that if they did not the Regent's support would be withdrawn. The Kirk therefore granted what he asked.

(3)

The position was perilous enough without alienating such a powerful friend

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- (1) If his Grace send us to the Justice Clerk (Bellenden) experience has taught us sufficientlie what he has done in any sick matters. They had been referred to the Justice Clerk July 1568 B.U.K.p.129
- (2) He asked "what actions ye receive." He held that ministers should do all the inquisition in such cases of morality as they claimed and that the Regent's authority should only be called in to execute justice
- (3) B.U.K.p.154

The delegates who presented the Assembly's point of view were a fairly large and representative body composed of Lairds Burgesses and Ministers. Some of the burgesses chosen for the duty were also members of the Civil Convention (1) It was in fact a kind of commission to treat with the Civil Power after the General Assembly had itself dissolved and the use of the Barons who as yet had no representation in Parliament was an evidence that the Kirk Convention was a field where the opinions of the baronial element were of value and that through the Church Court they could make these opinions known. The articles which they presented were simply a repetition of the demands of December 1567 only a proportion of which had become statutes and only a portion of these statutes had been operative. They fell naturally into two groups "provision" and "jurisdiction" (2) but beyond this the Kirk reiterated its demand for some definite order for the provision of the Poor. Their remedy was still the same. The "twa pairt" still in Popish or lay hands must pay and the cause of the poor labourer was

(1) Ministers 12 i.e. Superintendents of Angus Fife Lothian and Argyle; Knox, Lyndsay, Hamilton, Row, Hay (Renfrew) Wemyss, Christeson, Gardin.
 Lairds, 5. Fairly of Braid, Whittingham, Keir, Lundie, Barganie
 Burghs. 4 Thomas Wallace (St. Andrews)
 Patrick Murray (Perth)
 Barron (Edinburgh)
 Ramsay (Dundee) (B.U.K.p.145)

(2) B.U.K.p.145-146

supported but in general terms.

(1)

An important point however from a constitutional point of view and an indication that the Assembly already at this stage placed itself on an equality with Parliament, was the article "that imminutie may be granted to the Commissioners of the Kirk sent to the General Assemblies that during the time of the Generall Assemblies they be not molested in Civil actions Whether this claim was effective or not it is difficult to state. Professor Rait states that the Parliament provides no instance of this claim for freedom from arrest until 1639. Some kind of system must have existed. The Kirk would not have asked for such a privilege from a convention of Estates which had not the same privilege of protection for its members.

(3)

Although a great deal of conference must have taken place between the Convention and the Commission of Assembly the records of the Privy Council provide no information but the report given in the next Assembly

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- (1) E.g. Provision. All benefices to pay thirds and beyond that something towards the poor. ii. Against pluralities etc. The Regent advised the expansion of this in form suitable for presentation to Parliament. iii. Planting of Superintendents. iv. Arrangement for auditing the accounts of the Kirk Collectors by the Lords Of Chesser. v. Ratification of the augmented stipends in the assignation.
Jurisdiction (i) Definition apart from the Civil
 (ii) That commissioners be appointed to hear divorce for the Kirk distrusted the Commissariot Courts. The Regent promised to have this done in the Session
 (iii) Punishment of odious crimes etc.

(2) B.U.K.p.146

(3) Rait. Parliament of Scotland.p.526

shows that since the Regent was favourable the Convention simply registered his desires with regard to the Kirk. Yet fundamental questions were systematically avoided and the result of the commission was largely on points of detail. Jurisdiction and privilege provision for the Poor were shelved in the old interminable way but the Regent saw to it that the bargain he had made with the Kirk was fulfilled. The result was that the Kirk obtained full control of the thirds but on the understanding that she made certain definite assignments towards the support of the King's household and the common affairs, and a special reservation of 5000 marks for the Regent's expenses. In return for this Moray promised that no further burden should be imposed upon the thirds, and that any surplus thereafter should be devoted entirely to godly uses by the advice of the General Assembly and the Regent. For the whole of the Third with the exception of these assignments the Kirk Collectors were responsible to the Kirk alone and the modification of stipends was given over to men chosen by the Assembly and having warrant from the Regent and Council. But this arrangement was only reported to the Assembly⁽¹⁾ in March 1570 and was never operative for by that time the author of it was dead and almost the first business of

(1) B.U.K.p.173 Connell does not mention this adjustment probably on the ground that it was rendered nugatory from its inception.

the Assembly was to excommunicate the murderer. The Kirk agreed that Council of Nobility and Estates which was meeting at the same time should be asked to ratify these concessions, but the factions were too engrossed with their own feuds to desire anything from the Kirk except its undoubted powers of Propaganda which were naturally in this case employed in the cause of the remnants of the Moray Government. The convention of the Leaders of both parties, the Huntly Atholl section and the Congregation Lords under Morton met 4-15th March the Assembly 1-12th March, but their conference did nothing in the way of a settlement of a Regent. The Assembly in the unsettled state of the realm did what (1) it could and appointed a general commission to deal with the Nobility presently assembled in Edinburgh or whensoever they shall assemble hereafter till the next Assembly (2) "They seem to have had some articles entrusted to them but these are not extant nor is there any authentic record of these conventions of Nobility since the Privy Council Register is blank for the whole of 1570.

The General Assembly through its "Commission" followed the vagaries of the factious intrigues.

(1) Bannatyne Memorials pp 18 and 22; Calderwood. II. p. 527

(2) B.U.K. p. 170.

Now this Commission of the Kirk was composed of 5 ministers and 5 laymen of whom one was a Lord of Parliament but the other four were of the baronial class who were the most violent in its demands for the avengement of the murder.

(1)

While in the confused state of politics the Kirk could hope for no answer to its constructive claims (2) the forms of law yet survived and the Assembly set about stabilizing and putting to due execution what had already been gained, David Lyndsay was sent to the Lords of Session to submit a series of articles which were meant to give the Kirk legal security in case of lawless encroachments during the troubles. The Session promised to assist them as far as possible and it is to be inferred that they granted the Assembly's request that one church action per day should be called first so as to prevent the summary postponement of Ecclesiastical decisions. Such promises from the Session however meant little for the Lords were often the worst offenders for many of them were paid by gifts of benefices which were exempt from payment

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- (1) They were Knox, Spottiswoode, G. Hay, Lindsay, Row. Ociltree, Hume of Spott, Braid, Hautone and Ker of Fawdonsyde
- (2) Bannatyne says the lairds were the leaders in the presentation of demands to a Convention of Nobility in February demanding security for religion, ostracism of the Hamiltons, a Protestant Governor and punishment of the murder. (p. 15)
- The Questions proposed in the Assembly revealed how the local ministry were dealing with situation. All the Kirk censures were to be brought to bear against the Hamiltons and the individual minister was left large discretionary powers

of the thirds(e.g.B.U.K.p.181)

Presumably it was the Kirk commission who watched over the rival conventions of May and June. The Assembly itself did not meet until the question of the Regency was practically settled. July 5th 1570

(1)

The Kirk showed no hesitation in expressing its sympathies. The division among the Lords helped the Assembly to find its place as an independent force no longer completely at the will of the Ruling Nobility. For the Kirk there was no suggestion of compromise. They refused to consider that any true Protestant could for any motive support the cause of the Queen and backing their views by threats of highest Church censures their attitude must have materially assisted the final settlement. They further interfered in the political situation by sending delegations to urge "all lords Barrones and Gentillmen quhat soever that hes made defectioun" to return to the King's obedience

(2)

But the Lords of the King's party although sensible of

(1) Bannatyne says p.38 that ministers were asked to bring about reconciliation

(2) The wind had been taken out of the Kirk Sails by the protestations of the Marian Lords that they intended no alteration of religion but the Kirk was too deeply pledged to the other party to play any real part in mediation. Its fortunes must rise or fall with the Jacobite Party. (see. Calderwood. II. p.553 et seq.

Bannatyne. p.31)

The Assembly in its Third Session gave a frank avowal of its political sympathies. (B.U.K.p.177) It was statuted and ordained that the King's authority ought to be implicitly obeyed, ministers were commanded to pray for the preservation of the King's person and authority, and laxity on this score was to be punished; any subjects preventing them doing so upon whatsoever pretext were to be summarily excommunicated upon notoriety of the fact

of the value of the ecclesiastical support were chary of allowing the Assembly to take up too independent an attitude. Some points of the controversy between the ministers of St. Andrews, they declared involved a question of treason and Morton as Chancellor sent a delegation to protest against the Assembly finally deciding in the matter until it was first considered by the Convention about to meet upon the 12th of July

(1)

The Assembly (contrary to its later practice) agreed and nominated a large commission to "wait upon the Convention with continuation of dayes sa oft as the Nobility of this realme sall conveine betwixt this and the next General Assembly". It was another instance of the standing commission on Civil Affairs, and like the last one it contained a proportion of the unrepresented Laird Class. ON this occasion the Lairds outnumbered all the rest. Of the 26 nominated only six were ministers, three represented the burghs and the rest were Lairds with McGill as Clerk Register, McAlzean advocate, David Forrest General of the Cunzie. They were entrusted with the duty of propounding
(2)
to the Convention the petitions of the Kirk, but they had wider instructions to "concurr assist and consent

(1) B.U.K.p.182

(2) Supts. Angus. Fife. Lothian; Ministers Knox Craig Lyndsay
Burgesses Provost of Dundee, Ramsay of Dundee, P. Murray
of Perth.
Lairds. Balvaird Spott, Braid, Carnall, Dreghorn, Lundie,
Houston, Drumquhassil Coldenknowes, Carden,
Fadownsyde, Thornton, Inchbrakie, Kinzeancleuch
(B.U.K.p.182)

to all and quhat sumever sall be treatit in the said Conventioun tending to the setting fordward of the Glory of God, preaching and maintaining of true religion within the country and not only religion but "the King's Majesties authoritie commoun weil and authoritie of this realme". Thus they have a function very similar to those later General Commissions which aroused so much controversy, and from the particular aims of the ecclesiastical Estate for provision and jurisdiction they have developed a national outlook. It is not known whether this Kirk Commission sat and voted in the Convention since the authentic records are missing but at the formal election of Lennox to the Regency on 17th July barons and ministers are both particularly mentioned as taking part in the ~~the~~ ⁽¹⁾ ~~diverse~~ ^{engertane} barons might very well account for the 14 lairds of the Ecclesiastical Commission.

There is no record of ecclesiastical negotiations with the Parliament of October of this year 1570 But the confusion of Convention and Counter-Convention prevented any settled form of intercourse. The pulpit continued to fulminate against the Marians as a regular part

(1) Diurnal of Remarkable Occurrents. p. 180 "The electors of the said Matho in Regent wer James Erle of Mortoun, Archibald Erle of Angus, Mar, Elphinstoun, Menteith, Buchan Lyndsay Glamis, Ruthven, Methven, Carlisle with diverse certane baronis with the commissioneris of burrowis with certane prelatis abbottis and pryoris togidder with the hail ministeris and superintendentis."

of factional policy without too much regard for religious grounds.

(1)

The next Assembly met in Edinburgh on 5th March 1571 and though Lennox desired them to remove their meeting to Stirling or Glasgow to ensure closer communication, his request was refused "because the baronis and gentlemen and commissioners some of them wanted horse some of them had other impediment". Secure in the support of its baronial

(2)

and Burghal lay element the Assembly could rely upon its own authority rather than upon the borrowed influence of a Governor whose power was not acknowledged by a large section of the ancient nobility. They agreed however to authorize commissioners to "goe to the Regent and treat with him", for he asked advice "both concerning the estate and the affairs of the church and for the weal of the Kirk, King's Estate and Commonwealth". The whole tenor of the commission reveals an entirely different attitude. The Assembly is to negotiate on equal terms with Regent and Council no longer as a supplicant for favour but as an independent power which may readily become a serious rival to the central authority.

The commission which the Assembly nominated

(1) cf. The feud between Knox and Grange (Diurnal.p.81)

(2) B.U.K.p.185 The Regents Letter and the Assembly's reply.

was drawn entirely from the the two classes who were completely outside the Parliamentary system. Eight ministers and seven Lairds were the quota who were to represent the Kirk at the Convention or augmented Privy Council meeting on 31 March. They were under obligation to report their procedure to the Assembly in the following August and the articles which they had to propose were largely recapitulation of the arrangements arrived at with the Regent Moray in the matter of provision while they had a definite scheme to propose for jurisdiction.

(1)

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- (1) No presentation without admission and collation from the Kirk. (cf the case of Archibald Douglas. p. 192) hornring for non payment of thirds; a new agreement with Regent and Council for the pension out of the Thirds for the King's Household and for that of the Regent. ratification of other points of Moray's agreement particularly the assurance that any surplus should go not to the Crown but be devoted to pious uses. (B.U.K. p 188)
- On the point of Jurisdiction they asked punishment for the odious crimes of incest adultery and idolatry by special Commissioners appointed for the purpose in every province, and secondly approbation of the points considered in relation to the definition of Kirk jurisdiction. i.e. (1) Judgment of true and false doctrine (2) Election examination admission and deprivation of persons in ministry or holding benefices (3) Discipline in Correction of manners, admonitions excommunication and receiving to repentance (4) Judgment of ecclesiastical matters between ministers (but see later this extended to civil affairs also) (5) Excommunication against those robbing the Kirk patrimony (6) Since marriage belonged to the Kirk, Divorce ought naturally to be annexed thereto

The Kirk however was completely pledged to partisan politics. Craig alone of the ministers "offended manie of the godly because he made the cause of both parties alike" (1) The rival Parliaments of May 1571 were simply a trial of feudal strength which gave the Kirk some opportunity of practising that neutrality which ought to have been its permanent policy. Craig therefore played a leading part in the negotiations of the Commission of Assembly with the Castellans. But when the latter refused to have any dealings with the King's party in the "Heid of the Canongate" the commissioners dropped their conciliatory and as representatives of the Kirk admonished them to obey the lawful authority. The conference therefore availed little.

Under these circumstances the Kirk made no overtures to the Marian Parliament in the Tolbooth 11th June. (3) Instead they directed a General Assembly to be held at Stirling on August 6th where the Regent's faction had proclaimed a Parliament. This was a deliberate partisan move for the Marians had indicted a Parliament in Edinburgh

(1) C.III.p.76

(2) The 8 ministers and 7 laymen. These lairds Lundie, Elphinstone Carden, Barr, Carnell Dreghorn, and Preston of Preston one of the Commissioners of Edinburgh probably took little part. The ministry led by Knox directed the policy (supra)

(3) C.III.p.91; Diurnal.p.220 Several Burghs sent representatives to the Marian Parliament Jedburgh, Dumfries, Aberdeen Elgin Forres Inverness. What policy did these take to the Assembly

at the same time. The particularly long list of lairds
 (1)
 whom the Marians forfeited showed that the Kirk's allies
 were following her lead.

The Assembly's attitude in spite of Craig's
 efforts were uncompromisingly biased. But their reward
 from the Jacobite Lords was not what they had hoped. In the
 (2)
 first place their meeting was not coincident with the
 Parliament which had been indicted for 4th August and did
 not sit till the 28th while the Assembly held its meeting
 from the 6th. They however commissioned "certain brethren"
 (3)
 to meet with the Regent Council and Parliament for mutual
 interchange of opinions and articles. As usual the commission
 contained a large proportion of Lairds, but their proposals
 (4)
 contained nothing new. It was the old demand for punishment
 of vice, execution of the act for manse and glebes, and the
 disposal of benefices to qualified persons only. But their
 efforts were backed by petitions and representations in the
 name of the "Gentlemen Barons and other Protestants" who
 apparently had formed a joint meeting with the Assembly.
 This protestation accused Marians and Jacobites alike of

oppression of the ministry

(1) Both parties realized the power of the pulpit. The Marians
 commanded the ministers to pray for the Queen. When they
 refused they were forbidden to preach at all. C.III.p.97

(2) The Assembly forbade ministers to pray for the Queen
 and condemned the Bishop of Galloway for doing so "aganis
 the quhilk act Johne Craig opponit" (Diurnal.p.236)

(3) C.III.p.78; B.U.K.p.198.

(4) Nine ministers, Lothian Angus Fife Superintendents, Row
 A. Hay, G. Hay, Lyndasy, Ferguson and Duncanson.

8 Laymen Inverarity, Lundie, Johnstone of Elphinstone,
 Cunninghamhead, Carnall, Bargany, Greenock, Carden.

This Baronial party critical of both factions would indicate a tendency to neutrality coming not from the ministry but from the "Gentlemen" who in the absence of representation in the Parliament made the Assembly their Convention of Estate. Another party with the same principle deliberately refused to attend the meetings of Assembly in despair of arriving at a national settlement on a non sectional basis.

(1)

In any case these wholesale accusations of the barons and the Kirk roused the ire of the Lords of Parliament. All petitions were rejected and the ministers dismissed as "proud knaves" by Morton although the Regent himself sympathized with their proposals. In direct defiance of the protests of the Commission of the Kirk the Parliament instituted the appointment of Bishops, and the Assembly had compromised itself so far with this one party that it had no remedy. It was generally believed that "it was now good

(2)

(3)

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- (1) Letter to the General Assembly. Bann. p. 182-3 "Think it not strange altho we frequent not your assemblies publict or particular as heirtofore we have done. Swa long as onie esperance rested that be you..vice should be bridled.. we never irked any paines.. But perceaving corruption so fast to grow... we have chosen in secreit to mune and absent our selves fra all conventiouns then to be present with you whait nather our vote can stay the corrupt affections of men to take place nor can our ~~counsell~~ further any guid action... especially in this last assembly at Stirling. And thairfor if ye find fault with our absence in time to come blame yourselves that banishe from you these men that most earnestlie have desyred. ~~th~~ your prosperitie in God
- (2) Bann. p. 183. (3). C. III. p. 160 "The great misorder used at Stirling in creating Bishops placing them and giving them vote in Parliament. The Kirk Commissioners were not heard but "boasted with threatenings"

good time to conquer from the Kirk being now as they judge weake and poore priviledges and profites to the tempotall authoritie"

(1)

Lennox had been an ally of the Kirk. After his death the danger became more **apparent**. The Assembly had been led by Knox' ferocity into an alliance with a Parliamentary faction which had no intention of submitting to the Kirk or any other representative institution. The Kirk collectors were forbidden to intromit with the thirds, on the ground that they were corrupt and that neither ministars stipends nor the Crown assignation were being paid. (P.C.R.II p 90) and the order was only withdrawn at the insistence of Erskine of Dun who was of kin with the Regent Mar. The

(2)

whole point of the quarrel was that the King's party was attempting to gain adherents by promises of fruits of benefices while the Kirk was insisting that benefices

(3)

should only be held by spiritual persons. Dun claimed that by arrangement with Queen Mary each great benefice as it fell vacant was to be split up and each kirk was to have its own minister, but the Regent's explanation was justifiable. In the first place the policy of the Kirk was "not perfyte"

(1) C.III.p.161

(2) P.C.R.p.96. C.III.p.156

(3) "There was nane that wes brocht under the King's obedience bot for reward aither givin or promised In the Stirling Parliament the Rector of St.Andrews had been forbidden under excommunication to vote in Pabliament until admitted to the Bishopric by the Kirk. ~~Morton~~ ordered him to do so under pain of treason. Bann.p.183; C.III.p.138

The result was the Regent's proposal for the godly conference which met in January 1571¹⁷²² at Leith, with the implied threat that if the Church refused such conference the Parliament would take it up. The negotiations summarily broken off at Stirling were thus renewed in the Leith Convention which though vague in Constitution seemed to consist of the Superintendents and such as they brought with them. The Constitution of the Assembly itself was no more definite at this time. It was summoned by the Superintendents at the request of the Regent, and it followed the precedent of other Kirk Conventions by convening a few days before the Parliament which was summoned to meet on the 15th of January "to the end the Kirk mycht have asked sic thingis as apertained to the liberties thair of .. off the Regent and Counsell". But Parliament had been prorogued and since the Western members present could not afford to return for the actual General Assembly (which had been fixed previously for 6th March in Sb. Andrews) the Convention was given the force of an Assembly without prejudice to the later meeting, and in place of negotiations with Parliament they dealt with a delegation from the Council.

(1) C. III. p. 164

(2) The method was this. Mar persuaded the Superintendent of Angus, who then wrote to the other Superintendents and some commissioners "at the Regents desire" but not necessarily the Regent's nominees. An earlier convention ~~had~~ met on the 16th December for the same purpose. The members of this convention ~~may~~ have been the "Commission of the Kirk" who in that case shared the responsibility with Dun. Bann. p. 204 but there is confusion.

Although it consisted of 35 ministers and 27 laymen only seven commissioners were used in the negotiations with Regent and Council. These were Dun, Winram, Andrew Hay Lyndsay Pont Craig and the lay Laird of Lundie. Adam Fullerton burgess of Edinburgh was added later, and they were to report the result of their conference to the next Assembly. Thus the complete Articles and Forms of Letters introducing the Tulchan Bishops were the work of a handful of ministers and an equally small group of the Council. Lundie was a nominee of both sections. The Assembly in later years learned to distrust small groups and prohibited the granting of absolute power to conclude This colloquy was pointed out as a supreme example of the evil. The establishment the principle of which was obvious provided means for restoring the revenues of the Crown and of pensioning the Supporters of the Regency.

The Assembly of March had apparently no direct communication with the Civil Power and its duty consisted of accepting and approving the decisions of the committee. But it nevertheless asserted its independence in its claim to retain Superintendents in spite of the establishment of the new Bishops whom they regarded as synonymous with Superintendents themselves. (2)

(1) Morton Ruthven, Bishop of Orkney, Commendator of Dunfermline
Mc.Gill (Clerk Register) Bellenden (Justice Clerk)
Lundie and Glenorchy.

(2) B.U.K.p.242

It was during the abstinence(August and September) that the next Assembly met Perth August 6th, and its dealings with the civil power were therefore on a more normal footing. It gathered confidence to question this complete change in its policy towards which it had been driven. The "Popish titles" were suspect and the Assembly appointed commissioners to consider the functions and alter the titles, and these commissioners were to form once more a standing committee (1) not only for this but for consultation with the Regent and Council. Their report was to be made either to the General Assembly or the Parliament if the latter met first. Even at this period the Kirk did not insist upon the responsibility of its commissioners to the chief church court. Thus decisions might be discussed and settled in Parliament without the main body having any opportunity of voicing its protest. This commission probably was also the bearer of the Articles which Knox sent to the Assembly for presentation to the Regent. These articles were not wholly concerned with Kirk (2)

(1) B.U.K.p.245

(2) ibid.p.249 Knox advised (i) A new act ratifying the KING's authority(cf.B.U.K.p.177 July 1570) (ii) A petition to Regent and Council that in any treaty the Kirk be not prejudiced.(iii) No Bishopric or benefice to be given to unqualified persons.(iv) No pension to be given by Regent alone without the consent of the possessor, Superintendent or Bishop(as elected at Leith) and an act of P.C.to execute this until made statutory by Parliament.(v) Moray's form of presentation to remain (vi) Kirk's right to the thirds to be safeguarded (vii) Bishops to give account of their rents to the G.A. (viii)The Assembly to settle the Kirk's jurisdiction (ix)Petition against massmongers etd.(x) Justice for Kirk actions before the Session.

establishment and showed a tendency to make the Assembly a political power.

Allied with the baronial element the Assembly was undoubtedly a force. It was probably the leaders of the Kirk who organized that mass meeting of Protestants to compel the Council to take active measures against the Castellans and the French Papists against whom popular indignation ran high in the light of the Massacre of St. Bartholomew. The petition presented by the "barronnies Gentillmen and utheris professours of the Evangell presentlie convenit in Edinburgh" contained a demand ⁽¹⁾ that the opinion of all the Godly might be consulted on the political situation. The Regent and Council responded by proclaiming a Conventioun of all Professors for the 20th Oct. ⁽²⁾ This was a summons by public proclamation that every Church should send representatives "ane or ma according to the qualitie and quantitie of the persoun and rowme" to advise upon measures for mutual defence against Papists. Remission was promised for all commissioners (cf the question of privilege) for 15 days after the first date of meeting on the 20th, and freedom of speech and vote was promised. This was an extraordinary meeting an ecclesiastical convention summoned by the Civil power to discuss a political situation

(1) P.C.R. II. p. 168 Oct. 3rd 1572

(2) See Diurnal p. 316

It seems clear that it was forced upon the Council by the ministers and the inner coterie of Lairds, but the response to the proclamation was not such as the zealots had expected. Instead of a large representative body which they expected would have taken the place of the ineffective Scottish Parliament, there assembled only the ministers the Laird of Lundie and some Lothian gentlemen, although the articles which they dictated to the Council were offered⁽¹⁾ in the name of the "ministers barons and commissioners of Kirks" Bannatyne suggests that the reason for the paucity of numbers was a counter proclamation for a "Road to Jedburgh" but had the Assembly been definitely established⁽²⁾ as the national leader such an evasion would have been impossible. The plans which they discussed had obviously been prepared in anticipation of a great national demonstration which could dictate its own terms to the Council. They laid down rules of policy with regard to Papists, the domestic situation, and foreign policy pointing out the necessity for an alliance with England and other

(1) Bann. p. 276. "Never ane grit man nor lord come except the Laird of Lundie and some but few Lairdis of Lowthian neirby. As for ony Lord thair wes nane

(2) Cf. also Diurnal p. 316

Protestant powers. They plad for internal union of all parties against the Papist but nevertheless the zealots thundered against the Castellans irrespective of whether they were Protestants or not. Their demands may be grouped under 6 heads. I. Punishment of all offenders both in the ministry and in the nobility by citation before the Superintendent ministers and elders. The faults of the nobility were enumerated as wrongous use of the Kirk Patrimony, oppression of the poor, neglect in the administration of justice and punishment of vice. For the last particular commissions ought to be appointed. II. Citation of Papists III. Execution of the Acts of Parliament that no Papist be admitted to Council and Session. IV. Active measures for the destruction of the Mass by the Professors. V. The political situation :- None to be comprehended in any truce save those swearing to maintain religion. VI. A league and Confederacy to be arranged with England and Protestant Countries.

(1)
These demands were to be the political creed of the Church for many years to come. The extraordinary Melvinian Conventions in the last decade of the century added little new. The kirk had obviously aspirations towards directing government which developed as her position in the country became less dependent upon the the Civil Authority, but the unsettled Regencies compelled the Kirk to fight afresh for its subsistence and its real tenure of power did not begin until Presbytery had been instituted. As personalities in Parliament and Council

were of more force than an indefinite constitutionalism so in the Kirk individual ministers directed the Kirk Policy often on their own initiative. The Superintendents and the group of Edinburgh Ministers were the Privy Council of the Kirk. The organization of the Kirk required an intermediary body between Synod and Kirk Session to give it a wider national appeal. Even so the group system which was characteristic of Scottish institutions vitiated a thoroughly popular control.

In any case this last attempt of the Kirk to direct civil affairs was doomed to unfulfilment. The death of the Regent Mar a few days after the presentation of these measures prevented them making any real impression on policy, for some time.

But the Parliament of January held as it were by stealth in the Edinburgh Council House after the expiry of the truce did something towards realization of these demands. (1) and confined the ministry to those who were of the Jacobite faction. (2) Explanation of the Act of 1563 concerning manse and glebes was given and statutory execution to the (3) Act of Privy Council of 13th Sept. 1563 for repair of parish

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- (1) e.g. APS. III. p. 71 cap. 2 All papists delated to the Bishop or Superintendent or ministers and summoned under excomm. If disobedient the Bishops etc were to ~~delate~~ the names to the Regent and negligence on their part was censurable by the G.A. with fines attached. The disobedient excommunicates were to get no benefits of Justice until they were reconciled to the Church.
- (2) Every possessor of a benefice was to acknowledge the King's authority. A.B.S. p. 72 cap. 3
- (3) see. A.P.S. II. p. 539 and ibid. III. p. 73 cap. 5

kirks. These and several other acts stabilized the
 (1)
 position of the Kirk, but the act which was of greatest
 import was that which gave to the ecclesiastical censures
 of the Kirk civil sanction. It was decreed that letters
 of four forms against excommunicates should be directed
 to the Lords of Council by the Lord Advocate or the
 Procurator of the Kirk after 40 days charging the excommunicate
 to satisfy the Kirk under pain of rebellion and
 burning according to the form current in the time of James V.
 The Kirk by this act was enabled to compel recalcitrant
 to acknowledge its decrees. If they disregarded the terrors
 of the spiritual cutting off from the body of the congregation
 the civil disabilities would bring them to submission.
 Thus the Kirk had gained from the Parliament recognition
 both of its claims for provision and for jurisdiction.

Even in the Pacification with the Hamiltons
 at Perth the Kirk interest was not forgotten. The Regent
 promised to obtain what remission he could for the Hamiltons
 from the Assembly for the rents and thirds which they had
 sequestrated during the struggle. The sequence seemed to be
 (3)
 this. The Regent Morton had been appointed largely by the
 support of the Lairds, and the Lairds looked to the Assembly
 as their representative body. To retain the lay support the
 Regent was willing to pay the price by ecclesiastical
concessions.

(1) The act had never been executed owing to the hostility
 of parishioners who had to stent themselves for 2/3 of
 the expenses payable to the deacons. P.C.Rp. 247 Vol. I.

(2) A.P.S. III. p. 76. cap. 14

cf. A.P.S. III. p. 76

(3) Bannatyne. p. 313

The Assembly of March 1573 was therefore on better terms with the Civil Authority. The committee to present articles to the Regent and Council was now an accepted part of the procedure. As the Kirk felt its position more secure it depended less upon its lay element. In the present Commission of the seven members only two were laymen Fairly of Braid and Adam Fullerton burgess of Edinburgh. They had instructions to consider and conclude both on the articles presented to the Regent and by him, and at first ⁽¹⁾ were to report their decisions before the end of the Assembly but this proving impracticable their commission was extended to include conference with the Lords Articles of Parliament. Morton indeed was intent upon defining the position of the Kirk in relation to the civil Government. A small committee of the Kirk met with the Privy Council to examine the Books of the Assembly and he attempted to include ~~them~~ ministers in the Government by offering them the vacant places in the College of Justice. The Kirk refused to permit the double office as contrary to the Book of Discipline but made an exception in favour of Pont who was already a member of the Court. It was an effort to induce the Kirk to acquiesce in the Tulchan system in exchange for speedy execution of Kirk law suits. (2)

(1) No record of them apparently is extant.

(2) See Morton's letter to the Assembly. B.U.K. p. 264
The Regent was to choose ministers himself for the spiritual half of the College according to the first institution

The "Questions" which he submitted also showed that he was determined to have definition of the Civil and Spiritual powers as far as possible

(1)

The small commission which had power to conclude with the Lords Articles on the Kirk problems has left no record of their negotiations. One act of the Parliament of April 30th was not well received by the Kirk who censured the Bishop of Dunkeld who had voted on this question of divorce knowing that so far the Assembly had suspended decision

(2)

While enthusiasm at the taking of the Castle still ran high the General Assembly met in August and was prepared to give special privilege to the Nobility and Council who should attend its meeting. But detailed and particular conference was as usual entrusted to a small committee consisting of 4 ministers 4 burgesses and three lairds who were sent to the Regent and Council to receive and consider their proposals and the Church petitions were then prepared and sent after them. On 12th August the Clerk of the Privy Council brought to the Assembly the list of conclusions already agreed upon by the conference

between the Kirk Commission and Council. (3) These showed

(1) B.U.K.p.267. see also Rait. Parliaments. p.52

(2) B.U.K.p.270

(3) ibid.p.280 et seq. P.C.R.Aug.19.p.261-264 "The agreement made by the Regent & Council with certain commissioners of the Kirk

that this small commission had committed the Kirk to an arrangement in the matter of provision which was to be a grievance for many years to come. The difficulties of collection experienced by the Kirk Collectors induced an agreement with the Regent whereby the Act of 1567 became practically a dead letter. The Crown took over the Collection and special assignments were made for the supply of the ministry, so that the whole surplus went to the Royal revenues instead of the fixed sums which Moray had agreed to accept for support of the Household. It was stated that this was only an experiment as an alternative to the 1567 Act but the kirk had really robbed itself of one of its chief rights which it never ceased to regret.

(1)

In return for this acts were promised for making the civil penalties incident upon excommunication effective by horning and escheat at the King's expense and for the punishment of those resetting the excommunicate, punishment of pilgrims, of Kirk burial etc were promised in the next Parliament, and the censorship of heretical books was to be given to the Kirk by act of Parliament

(2)

On the point of limitation of Jurisdiction a special conference between Council and Kirk was proposed the results of which should be confirmed by Act of Parliament

(1) Connell on Tithes. I. p. 96

(2) B.U.K. pp. 279-280 An Act of Privy Council July 29 1574 gave to the Chancellor this right of censorship.

With these arrangements the Assembly was apparently satisfied, but being on the point of dissolution could not afford to wait upon the ultimate result of the conference. It accordingly extended the Commission already appointed, until the next Assembly and added 12 other ministers to arrange the details of the particular assignments. But the evils of the system soon became evident. By the time that the Regent was proclaimed at the Market Cross of Edinburgh "general collector of the thirds of all benefices" the ministers were "nocht content". Spottiswoode tells us that the ministers were in a worse position than ever, "for when the Superintendents did assign the same (stipends) the ministers could come boldly unto them..and were sure to receive some relief, but now they were forced to give attendance at court begging their assignments and precepts for payment" (1)

(2)
How the Kirk commissioners received the Regents order for the union of three or four Kirks under one minister so that the Crown surplus might be the larger there is no record. Such protest as was made seems to have been at the instance of John Davidson in his rhyming dialogues for which he was pursued by the Civil Power. (4)

(1) Diurnal. p. 337-8; Petrie. p. 381

(2) Spottiswood. II. p. 195

(3) Calderwood. III. p. 301. James Melville. p. 28

(4) Satirical Poems of the Reformation. I. p. 297

The ministry was by this time completely disillusioned as to the motives of the great Lords. "They fought never against Papists but against the titulars of the tithes and rents of the Kirk. If Christ, if Religion if the ministrie sall reclame the tithes and Kirk rents they sall be to them Antichrist, Papists and Jesuits." In so many words they had ⁽¹⁾ threatened to leave the Kirk if the rewards were withheld. The Kirk's claim to the whole patrimony was ⁽²⁾ not therefore to be encouraged. The Crown's position was that since by the act the King had a right to the surplus it was more fitting that he should designate the ministers stipends than that they should designate the Royal Revenue. ⁽³⁾ The Kirk Commissioners therefore would seem to have been passive instruments in the hands of a forceful Regent. On questions of Finance the Kirk never could make much headway for the lay element which was its strength would not denude itself of its stolen gains. Even the minor lairds had enriched themselves to some extent at the expense of the Patrimony.

The General Assembly therefore which met in March 6th 1574 had several grievancés, but the Commissioners of the Kirk disclaimed all responsibility for the controverted acts. The Regent refused to be present in person

(1) C. III. p. 302-303

(2) See. C. III. p. 137 Stirling Convention August. 1571

(3) See. Petrie. p. 381
Connell. p. 96.

although the Assembly was attended by almost the whole body of the country, the nobility gentry and commissioners from Burghs. He even questioned the commissioners who were sent to request his concurrence, by what right they presumed to assemble the King's lieges. When the commissioners at last formulated the claim that summons to assembly did not depend upon the civil authority he declared it was treason. He proposed the question "Whether the Supreme Magistrate should not be head of the Church as well as of the Commonwealth" and the point was debated by four ministers and 4 of the Regent's supporters for several days without any agreement being reached (1)

(2)
Other commissions were appointed to consider the difficulties of the new financial settlement in which the personnel of the lairds were given almost an equal share, and similarly (3)
the Assembly was careful to make sure of its ground before formally entering into discussion of jurisdiction and the new "Policy" which was just beginning to be agitated. (4)
The Kirk of course would have preferred that the Regent sitting as an ordinary member of Assembly should commit the Civil Authority, but being disappointed of this and of

(1) Hume of Godscroft. History of the House of Douglas II. 243
The "whole body of the country" is probably an exaggeration for the Kirk would not have so humbly petitioned for the presence of the nobility if it had been such a national body. cf. B.U.K.p. 292-3

(2) The Laird of Whittingham was one of those reasoning for the Regent. He was a prominent member of the G.A. as well.

(3) Lundie, Whittingham Elphinstone Barr Spott Kelwood and the Commissioner of Aberdeen. B.U.K.p. 288

(3) B.U.K.p. 293

the attendance of the Higher Nobility and Council, the Assembly had perforce to delegate its authority once more to a small commission consisting of only eight ministers. Their powers were again wide. They were to discuss not only jurisdiction, policy but any other proposals made by the civil power, and not only in "the setting forward of God's glory" but also concerning the King's authority and the commonwealth. But this was undoubtedly regarded as a presumption by the Regent although he did not absolutely refuse to deal with the commissioners as the Kirk itself had feared but this "crossing of one another's proceedings" did set the Church and Regent so far asunder that while he continued in office there was no sound liking amongst them"

(3)

The time was therefore ripe for a leader of the same ruthless character as the Regent himself. The Kirk discovered him in the person of Andrew Melville. The Laird of Dun since the death of Knox had led the Kirk in its relations with the civil power, but he was too much of a

statesman and a moderate to be strenuous enough in opposition

(1) Dun Winram Pont Row G. Hay. Lindsay Lowson Duncanson.

(2) B.U.K.p.296

(3) e.g. Spottiswood. II.p.196. The Kirk (B.U.K.p.296) insisted that the Union of Kirks was only temporary. They also prohibited Bishops from exercising jurisdiction in the bounds allotted to Superintendents (B.U.K.p.294) The signs of friction are obvious. e.g. P.C.R.II.p.352 April 9 1574 A proclamation accused the Bishops and Superintendents of negligence in planting kirks and the hardships of the people paying tithe for no minister or at best an ill qualified one. They were to remedy this negligence by reporting to the Regent before the Next Assembly. This public proclamation would seem to be a deliberate attempt to alienate the support of the people from the church.

When the Assembly therefore met in August there was little improvement in the relations between the Kirk and the Civil Authority. The Council was in Aberdeen, the Assembly in Edinburgh, and communications were therefore formal. A series of 14 articles was prepared and entrusted to a committee of 4 ministers and two lairds who were despatched to Aberdeen. The demands were the old ones for provision and for definition of jurisdiction (1) of jurisdiction, but they urged the case of the poor and particularly the iniquitous teinding of the poor labourer. (2) But it was made clear that these commissioners were limited to negotiations with Regent and Council alone. If a Parliament should meet a special Assembly should be called to define its policy with relation to the Supreme Court of the Realm. (3) The Kirk had realized too well the dangers of complete delegation of power to the discretion of a small committee. Its policy was in process of preparation and it had a definite scheme to suggest to the Estates. The idea is latent that if Regent and council are inimical appeal to the national representative body might be more effective.

(1) Dun. Hay. Arbuthnot (Principal of Aberdeen) Craig. Fairlie of Braid. Heriot of Trabroun.

(2) For the independent position of the Superintendent apart from the Bishop, for the plantation of all Kirks so that the excuse for union might be removed, provision for Doctors at Universities, arrears of stipend, and delivery of the Book of Assignations to the Clerk of Assembly as had been promised. By the agreement at Leith these promoted to benefices were to pay one tenth of all their teinds to the poor, and for this execution was asked see. B.U.K.p. 306

On the point of Jurisdiction demands were made for the appointment of commissioners to try immorality witchcraft etc. And for divorce that in each diocese commissioners should be instructed. And the Kirk still reminds the Regent of the heretical books which are brought in. B.U.K. 310

It was probably due to the representations of this committee that the active measures were taken by the Council to compel the Aberdeen Magistrates to obey the Kirk injunctions, but of any further influence on domestic policy there is no trace. (1)

Both Convention of Estates and Assembly met simultaneously in March of the following year 1574-75. On 5th March before the Assembly began its sessions the influences of the Kirk articles are evidenced by the passing of the Acts for the benefit of the poor and restraint of beggars Business in both Kirk and Civil Convention provided several parallels. Each collected and adjusted its existing statutes. (2) Both appointed committees to consider the jurisdiction of (3) the Church and the new schemes of policy which were intended to overthrow the suspect Episcopacy. The Convention nominated for the purpose 16 persons who were to meet continually until they had completed consideration of the Policy and whose report was to be made to the next Convention of Estates. These sixteen contained six delegates from the Church chosen apparently from a list of ministers supplied by the Assembly. (4)

(1) P.C.R.II.p.390

(2) A.P.S.III.p.80. They were restrained to their own native parish

(3) "The collection and reformation of the lawis of this realme A.P.S.III.p.89; and "the visiting and perusing of the acts of assemblie and sick as as generall to marke and note the samein". B.U.K.p.325

(4) A.P.S.III.p.89

These Kirk members of Committee were to ~~send~~ copies of all their decisions to the Provinces for consultation before formal acceptance in the Assembly. It ~~was~~ however the ministers only whose opinion was valuable. ⁽¹⁾ The lay element was not regarded as having interest in the problem at this time although it was to them that appeal would be made for execution.

Pending these decisions the problems of the Thirds and their Collection was left in the state as established by the Regent and Council although the act made clear the difficulties of the Royal Finances in the face ⁽²⁾ of the "murmours" of the ministry. The hope of both parties therefore was for a full Parliament which should decide all controversies.

The Committee soon made its influence felt in the examination of the commissions of the Commissars, but progress was slow. The Assembly which met in August ⁽³⁾ 1575 (noted by all contemporaries as the scene of the great debate on the question of whether Bishops as instituted in Scotland had a lawful calling) negotiated on the old points ⁽⁴⁾ of controversy with the Regent and Council. Articles were appointed to be prepared by three ministers, but additional by individual members proposals, were not refused in open Assembly. The complete

(1) B.U.K. p. 328

(2) A.P.S. III. p. 90 Under the act of 1567 "albeit the ministers had never sa large stipendis nor sa certane payment" the King's surplus was grudged "as thocht na part of the saids thirddshad been grantit. for support of the prince..publict charges and effaires of the realme"

(3) P.C.R. III. p. 455 10th June 1575

(4) See. Sp. III. p. 200; Melville. p. 53 Row p. 347 etc.

list consisted of 9 demands the majority of which eventually passed into the Statute Book. They comprised grievances against the system of Collection,⁽¹⁾ and of the smallness of the assignments even when the minister was doing the work of three or four. Provision for Schools and Universities was urged, and once more the scheme for further help of the poor by taxing the two thirds was suggested in addition to the execution of the general act already made which provided only for a general stint of the inhabitants by the Kirk Session in Towns and the "Headsman" of the Country parishes. Obviously the system would only be effective if the Kirk had the support of the Civil Local Authorities.

The old ineffectiveness of Scottish statutes is repeated in the demand for punishment of vice (particularly of Sabbath markets) and the celebration of feast days for which a civil penalty was demanded.

(2)

The Regent gave no immediate consideration to these demands. He was going to the Borders he said and advised that the Kirk appoint a commission to await on him. The same five ministers who had already interviewed him were apparently entrusted with the task, but their earliest

(3)

(1) B.U.K.p.339. Petrie.p.386

(2) *ibid.*

(3) B.U.K.p.342

business would seem to have been on November 1st. But the
 (1)
 Conferences apparently on the Policy came to no definite
 conclusions. The Kirk itself had not determined its own
 position with regard to many of the details.

The Regent at the next Assembly in the light
 of the deprivation of the Bishop of Dunkeld (2) demanded that
 the Assembly should definitely state its mind and ruling
 in such matters, suggesting another conference between the
 Civil and Ecclesiastical authorities, or at least that the
 sum of the Kirk's own conclusions might be submitted to
 him for approval.

(3)
 The Assembly indeed had been seeking
 civil ratification of a Policy about which the main body
 of the Kirk was undecided. It followed the Regent's suggestion
 and proceeded to organize a scheme for arriving at the
 opinion of the different parts of the country on these
 vital changes. This method of appealing for decision on

(4)
 difficult points to the Synods would appear to be an attempt
 to sound popular opinion and the Kirk at large "for making
 an overture...and uttering the plain and simple meaning of

the Assemblies. But no Synod Records are extant to give

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- (1) Calderwood. III. p. 353. A special committee was also
 meeting to consider the union of parish kirks
- (2) He had appealed to the Lords of Parliament and the
 Kirk had had to fall in the Regent's advice. The Assembly
 declared that Bishops must have a particular flock like
 the Superintendents. B.U.K. p. 352
- (3) *ibid.* and Spottiswoode. II. p. 202
- (4) B.U.K. p. 362. Petrie p. 387 The ministers of the quarters
 were to be convened and delegates sent to a common
 meeting at Stirling. Each quarter received certain
 difficulties to elucidate.

information as to how far lay opinion was consulted. Reference to public opinion was the opinion of the ministry. But nevertheless the Barons and Gentlemen were urged to be present at any extraordinary General Assembly which might be called. The summons was to depend upon whether the Parliament met or not and the ministers of Edinburgh were to give the first warning of this to the Bishops and Superintendents. The insistence upon the presence of the Barons who were not yet members of Parliament is significant. The Assembly with the Barons in attendance was a more representative body than the Parliament itself, and in the Assembly they had come to a consciousness of their power as a constitutional force.

But such a Counter Parliament was not necessary for no Parliament was summoned. "Morton was a strong ruler and Parliament exercised no influence upon his rule". (1) As we have seen it irked him that any convention including that of the Church should meet without his authority, but meet it did protesting its freedom according to the Scripture Its independence of the Royal Summons and its alliance with the ~~at~~ ~~Pass~~ outside the Parliamentary system made it one of the leading checks upon Morton's autocracy.

(1) Rait. p. 54

The General Assembly met at its ordinary time in October, expecting intimate communication with the Authority. When however they requested the Regent's presence he refused to derogate his Civil position by attending a convention where he was not an autocrat, but offered to send delegates as before. Council and Assembly therefore communicated by a series of commissioners. The Regent's point of view in relation to the proposed new system was implicit in the 42 questions which the Clerk of the Privy Council produced. The crux of the matter lay in the demand (1) "Who shall occupy the place of the Ecclesiastical Estate in the King's Parliaments Conventions and Councils and how many?" and other points involved how far the office of (2) minister was consistent with civil duties such as membership of the Court of Session, the position of Sheriff Town Clerk of *The Superintendent of Angus*. Provost and whether a landed man who by virtue of his (2) tenure must attend Court and go to war might also fulfil the ministerial function. The Regent's purpose seemed to be directed either towards including the Reformed Church in the Parliamentary system of representation or else to confine the ministerial function to a definite class of the community and break the alliance between the ministry and the landed gentry many of whose younger sons entered the Kirk

(1) B.U.K.p.369 cf. "Constitution" where the questions are discussed with relation to the composition of the Assembly.

(2) The Bishop of Glasgow when asked by the Assembly to accept a particular flock replied that the Kirk itself had accepted the Estate of Bishops during the King's minority in 1572 or pending alteration by Parliament. He said that when Parliament and the Kirk had done so he would agree. Row.p.350

The Regent wanted a definite statement from the Kirk as to who they considered ought to be judges in divorce testaments, deprivation of benefices, functions which the Bishop and his Official in the Roman days had been wont to discharge. He expected the Kirk to make a definite claim to jurisdiction which he might accept or disclaim. In his desire for order he expected a clear expression of opinion which the church was not prepared to give. All therefore that he obtained on this point was the appointment of another committee to collect all that had already been agreed upon by the consensus of opinion of the Kirk both in the Policy and on Jurisdiction. A formal written report was to be ready at the next Assembly.

This report was considered by the Assembly of April and contained an account of the decisions arrived at by the "quarters" and by the conference at Stirling but progress was slow. Without coming to a conclusion they sent a message to the Regent that they were still debating but proposed temporary remedies for grievances which could not wait for the completion of the whole policy. But the Regent was determined to resist unofficial encroachments (1)

- (1) Provision for visitors, loss of function in ministry to imply loss of benefice, etc. The points demanding Parliamentary action were Execution of laws against adultery, and the prohibition of Robin Hood plays on the Sabbath. B.U.K.p.388

He first made a stipulation that only such as required his personal action would he accept for otherwise a Council must be called, but three of the Kirk articles definitely demanded Parliamentary⁽¹⁾ action. In the end he refused to receive them at all because the Commissioners⁽²⁾ had no formal written commission. As far as he was concerned there were to be no semi official conferences with Kirk leaders who dictated or suggested policy as they had the opportunity to the Civil Ruler as an individual expecting him to execute their demands in his capacity as the Head of the State. He maintained the policy throughout of separating his private function as a member of the Church from his public one as Regent of Scotland. The Kirk was not prepared for this formality. As usual in such a crisis they appealed to that class which had no formal constitution or function in the State. i.e. the Barons, to come in great numbers to the next Assembly. The Kirk was perpetually reverting to the system which had been so effective in the primitive⁽³⁾ Reformation.

Whether they did respond in this instance in the required numbers is not known, but in any case the Regent's attitude was not modified by their presence in the next

(1) B.U.K. p. 387

(2) Craig and Lindsay. B.U.K. p. 389; Petrie. p. 391

(3) B.U.K. p. 389

Assembly. in October 1577. He deliberately refused to attend as having no leisure to talk with them for occupation" and maintained this attitude though urged a second time. He suggested that the Kirk should send accredited representatives to confer with him, and professed zeal towards the fruition of the Policy now almost completed. As a modern authority has said "The Earl of Morton was too strong a ruler to tolerate any plea of exemption from the Royal authority. To him the General Assembly was an object both of suspicion and contempt. Intellectually far inferior to Maitland he grasped more firmly the true meaning of the Reformation as a pledge of Union with England".

(2)

To the Assembly whose fixed foreign policy was the English alliance he presented Elizabeth's letter concerning the Council of Magdeburg and officiously asked for the Kirk's advice "if they thought meet that any of the learned ministers of this nation shall repair thither". He thus restored some measure of goodwill without yielding any point in his own position. He himself sat apart as an

(3)

(1) James Melville p.59 tells us. "During all these assemblies and earnest endeavors of the breithring the Regent is often requyrit to giff his presence and fordar the cause of God bot not only in effect refusis bot uses grait thretning against the maist zelous brethring schoring to hang of thame urtherwayes ther could be na peace nor ordour in the country.

(2) Matheson I. p.217

(3) The Kirk agreed and presented a list of 8 ministers names from which the Regent was to choose 2. The ultimate choice fell on Andrew Melville and George Hay (Row. p.352) This was an ingenious way of removing the chief firebrand. Neither went however "for want of expenses and charges" C. III. p.387

independent power, while the Kirk prepared its programme and revised the Policy for presentation to him. Three ministers presented it and an advisory committee was also nominated (1) lest Morton should request conference. In point of fact the Policy made no definite enactment on any of these controversial points and left a wide latitude to the Kirk to "teach the Magistrate". The Melvinian system desired an organized Civil Authority to do the bidding of the Theocrats (2)

In view of the Regent's alienation the revolution which dethroned him was a fortunate occurrence for the Kirk, even although the leaders had been rebuked of old by the Kirk. The new Government in its Convention at in March Stirling, did nothing to placate the Kirk, but these 9 ministers (3) commissioners who had been left in charge of negotiations had not allowed the revolution to pass without comment.

"To stay obrruption in the entrie of the King's Majesties Government" they had presented a supplication containing demands that only office bearers of the Reformed religion should be admitted that the late murders be punished, (4) that the Policy of the Kirk be established and sufficient (5)

support given it. Calderwood adds some others which show

(1) B.U.K. p. 398 Adamson Dun, Craig, Row, Arbuthnot, Andrew Melville A. Hay, G. Hay Pont Lindsay Lowson

(2) Matheson, p. 218-219 but contrast McCrie's life of Melville

(3) see A.P.S. III. p. 115 (4) B.U.K. p. 405

(5) The brawl in Stirling resulting in the death of Glamis and the feud between the Town and Castle of Edinburgh

that these commissioners were fully alive to the advantages to be gained. They asked that the new government would appoint representatives to confer on the Policy before the Parliament now appointed for July, and registered their demands which had been neglected by the late Regent for prohibition of Sunday markets and plays. At the same time they issued an inhibition to the new rulers to choose any "General Collector" without the Kirk's advice. They hoped that the new men would restore the Kirk to the benefits of the 1567 Act.

(1)

By the time the General Assembly met in April no answer had been forthcoming. The articles approved by the full Kirk convention were appointed to be re-presented to the Council. The Kirk in the wonted manner demanded the presence of the Council either in a body or by representativea. The new Government was not so arrogant as Morton and did not absolutely refuse but sent Herries and Deir not to vote and conclude but simply to hear and see the proceedings of the Kirk. They thus safeguarded themselves against hasty concessions and against merging their authority in the ecclesiastical meeting. The Kirk was unwilling to recognize the distinction between public and private function, and applied to the main body of the Council for explanation.

(1) C.iii.

(2) B.U.K.p.404

(3) ibid.p.406

The Council deliberately retained its full ~~power~~ in its own hands, although conferences on many points took place and the Kirk following out its principles directed deputies to those of the new government who were suspect in religion to urge them to conform. But the system was not satisfactory and the majority of the articles were simply shelved. (1)

On the question of Policy they gained nothing. The procedure was exactly that which had been arranged with Morton. The **complete** policy was produced before the King and Council by three ministers and an additional advisory committee was once more appointed in case of conference. (2) And not only the Discipline was to come under review but the thorny question formerly raised by Morton was revived "How far Ministers may meddle with Civil Affairs" and more particularly if they might vote in Council and Parliament. If the new Policy obtained, how was the Estate of the Clergy in Parliament to be replaced. The Assembly had ruled out the Bishop and had no alternative to offer. (3)

Since 1574 the Kirk had been in expectation of a Parliament which should provide the universal panacea, and therefore made special arrangement to coincide its meetings with that which the government promised in ~~January~~ July

(1) B.U.K.p.407

(2) *ibid.* p.409 Once more they were all ministers

(3) *ibid.* p.411

The return of Morton to power naturally affected the Assembly. Its next meeting had been fixed for the 7th of July in Edinburgh, i.e. three days before the Parliament on the 10th. Now that the centre of power had shifted to Stirling the General Assembly upon warning of the leaders of the Kirk convened at Stirling on 11th June apparently in an attempt to coincide with the civil convention on 10th June as a result of which the Parliament was (1) transferred to Stirling so that Morton might not have to relax his guard over the King's person. The Assembly was small owing to the hasty summons, but Morton needing all the available support through the official medium of the boy king expressed his desire to placate the Kirk. (2) And the Assembly thereupon sent delegates to ask for the personal attendance of Royal representatives, though there is no mention of their appearance. After hearing and approving the decisions of the previous commission for the Policy the Assembly dissolved leaving most of the business to the next Assembly in October. Calderwood however states (3) that at this Stirling convention arrangements were made

for a formal conference between civil and ecclesiastical

(1) Moysie. p. 9 Nobilitie and Burghs were present. A.P.S. III p. 120 gives the restoration of Morton under the date 12th June. Melville and some of the other authorities are undecided as to whether the Assembly met in June or July. But Spottiswood is quite clear. II. p. 223 See P.C.R. II. p. 705

(2) B.U.K. p. 414

(3) The records however are incomplete. Petrie. p. 395

committees which began their sessions on 23rd June. The delegates were for the Crown-- Morton Herries Ruthven Lindsay Lundie Caprinton Pitcur Newbottle and Deir, for the Kirk-- Pont Melville Hay Lindsay Lowson and the Bishops of St.Andrews and Aberdeen. The inclusion of the (1) Lairds in the Civil faction illustrates the baronial support which Morton commanded and how the unrepresented class was used in church negotiations before officially recognized as an Estate.

Although there was a special provision in the acts of Assembly for the meeting of an Assembly in the event of a Parliament, yet when the Parliament the first since April 1573 did "hold" no Kirk convention is recorded. This was probably on account of the expense (2) entailed and also perhaps because the Parliament was of doubtful legality because held within a fortified strength. Perhaps pending a final trial of strength between the Edinburgh and Stirling factions the leaders of the Kirk did not commit themselves. They were chary of again putting themselves completely in the power of one section of the Nobility. But the Stirling Parliament showed its zeal towards the Kirk, and a committee of ministers (probably (3) those mentioned above) was certainly in attendance;
(1) C.III.p.415

(2) July 10=15, 25 A.P.S.III.p.94

(3) e.g. The express ratification of the True Kirk and Religion A.P.S.III.p.95. The act for visitation of Universities is also traceable to the representations of the Kirk

Calderwood refers to them as "the Commission of Assembly and states that they were 12 in number. They appeared before the Lords Articles to request the confirmation of the Policy by act of Parliament, but were indignant when the Lords did not accept it at once but referred it to a Committee. The list of members of this committee shows

5 Lords 3 Bishops 3 commendators 3 doctors (Buchanan Young and Arbuthnot, 3 Barons, 3 burgesses 3 advocates and 6 ministers

But the choice of these ministers raised one of the minor storms with the Kirk. The Commissioners were asked to nominate 12 ministers from whom the Parliament or the Articles might choose 6, but this they refused to do maintaining that they had no commission from the Kirk for this purpose and that "it became not the prince to prescribe a policie to the Kirk." The Lords Articles on the other hand replied that "the King might call whom he pleased and with their advice make a law" and since the Kirk refused to elect, nominated 6 ministers in the civil right. The committee was ordained to begin its sessions on 18th August. It was regarded as simply a means of driving time for the Conference of June had agreed upon the majority of questions. The Kirk's idea was that these commissioners of the Kirk were really on equal terms with the Committee of the Articles of Parliament

(1) Calderwood. III. p. 415 et seq.

(2) A.P.S. III. p. 105 cap. 19. An effort to define the bounds of jurisdiction is to be traced in the appointment of the committee for Commissariat Courts. *ibid.* cap. 17

What would have been the position had the Lay element of Assembly made the demands? It was probable with a political motive with a view to restraining the arrogance of the restored Morton Government that with the help of the English ambassador the ministers entered into negotiations with a section of his opponents which eventually resulted in the return of Montrose and Lyndsay to the Council.

(1)
The reconciliation Convention of 20th September was a failure but most of the noblemen came to a meeting in Stirling on October 20th shortly before the Assembly kept its ordinary half yearly meeting in Edinburgh. It is not surprising that the "Opposition Lords" should attempt to ally themselves with the discontented Kirkmen. This had always been a part of policy. The kirk itself would seem to have made the first move, and invited their presence. "Thir noblemen war the Erles of (2) Atholl Argyll Montrose (Seton and Lindsay) etc. wha had drawin the factioun against the Regent Morton. Sa it plesit God to work" Thus the Assembly stands as the Counter Parliament (3) or the permanent opposition. The Lords in Opposition adopted the Kirk demands as circumstances allowed, and agreed to

(1) SEE. Moysie. p. 14 C. III. p. 419, 424; Spottiswode. II. p. 229
P. C. R. III. p. 22. note.

(2) "Becaus that divers noble personages were present within the town whose presence was necessar to the Assembly" a delegation was sent to ask them to attend. (B. U. K. p. 418)

(3) James Melville. p. 76. B. U. K. p. 419.
See also Calderwood. III. p. 428

"labour at the King and Counsell's hands for the estab:
 :lishment of the Policy, the restoration of the Act of 1567
 with regard to the Collection of the Thirds, and to insist
 that none vote as the ecclesiastical Estate in Parliament
"except such as shall have commission of the Kirk for that
 effect". This last demand indicates that the Assembly
 (1) was realizing that its ideal of equality with the Parliament
 was not practicable, and that it had begun to consider
 whether or not it ought to take its place as one of the
 ancient Estates of the realm. To do so would mean that it
 fell from its position as a national representative body
 in order to become merely a particular assembly of the
 Ecclesiastical Estate. What was to happen to the lay element?
 Probably the Lairds hoped that they would receive the Kirk
 (2) commission to Parliament. For the tendency of late had been
 to separate as far as possible civil and ecclesiastical
 function in the person of the minister.

Whatever the constitutional changes involved
 the Assembly as it stood was a good ally in opposition.
 It was agreed that a joint delegation of Assembly and
 Opposition Lords should go to Stirling to obtain audience
of the King. But Atholl would seem to have withdrawn before

(1) B.U.K.p.419. The Assembly however did not wait for King
 or Council's decision, but censured Bishops for voting in
 Parliament without consent of the Kirk. Glasgow pled the
 Royal command and the necessity for having some Churchmen
 present at the making of laws. C.III.p.429

(2) Several of them were in the opposition government. P.C.R. III
 see. P.C.R. III.p.26

he was too deeply committed for the feud was patched
 up independently, and the Kirk gained nothing. The Assembly
 however had shown its possibilities as an Opposition
 Parliament. If the Lords had made mutual alliance with the
 Kirk there was little to prevent the Assembly taking its
 place as a serious rival if not to Parliament at least to
 that type of Convention of Estates which Morton used instead.
 Something however was to be hoped from the coalition. The
 Lairds no longer divided by feudal ties into two parties
 were the strength of the Church.

A conference in Stirling on 22nd December
 would seem to be nothing more than a meeting of that committee
 appointed by the Parliament of July, and whose sessions had
 been interrupted by the civil wars. The "Commissioners of
 Assembly" had objected to the nomination of this committee
 as unnecessary and accordingly we find the ministers who
 attended this December Conference protesting that they had
 no power to commit the Church but had come only at the KING'S
 command. Nevertheless the business was comprehensive and
 in fact outlined the whole policy of the Kirk to be brought
 up in the next Parliament. It was virtually an inclusion of
 nominated ministers in a meeting of Privy Council.

(1) "He thinks it meet that they goe foreward with their
 purpose whether he goe to Stirline or not becaus he was
 uncertain; but if he be present he shall assist their
 commissioners." B.U.K.P. 421

See Moysie for the account of the coalition. p. 19

(Row. p. 357 states that the full proceedings are unknown
 owing to a defect in the original register)

(2) Rait. p. 147

(3) C. III. p. 434 Earl of Buchan, Bishops of St. Andrews and
 Glasgow, Comm. of Dunfermline, Dun Seggie Pitcur Buchanan
 Young, Pont Lowson, Row, Lindsay.

They discussed the support of the poor, the punishment of violence against ministers, and ministerial privilege, and the Kirk's right to the thirds. But final preparation was remitted to a smaller committee of three ministers and three laymen, for presentation to a convention in March. 1579.

(1)
But there is no trace of Kirk business in this meeting which was in fact only an augmented Privy Council. Traces of (2)
their influence however are noted later in the year when in a meeting of Council June 2nd 1579 it was advised in the name of the ministers of God's word that the abbacies of Paisley and Arbroath should be dissolved and the whole fruits or a reasonable proportion given to the support of the ministry. And the Privy Council actually went so far as to recommend acceptance to the King. The Kirk in the absence of (3)
specific laws in its favour was attempting to build up its case by decisions in particular cases. So much had been gained before the meeting of the Assembly in July 7th 1579 but in the unsettled state of politics resulting on the death or murder of Atholl the Court was uneasy as to the part the Assembly might too precipitately play

(1) C.III.p.442. Moysie.p.20

(2) P.C.R.III.p.108. History of King James the Sext.p.174
see.Rait.p.148 .It was held for joint action against the

(3) P.C.R.III.p.176 Hamiltons.
Masson's Introduction p.xxviii states this to be "the greatest concession yet made to Presbyterian demands". From the preamble it seems that the Convention of March had referred it to the Council. "It is already accordit and enterit in practize although not as zit confermit be any law that upoun the vacance of ony prelatie the Kirkis thair of salbe disponit to qualifeit ministers".

This Assembly was active both in relation to the negotiations which it contemplated with King Parliament and Convention of Burghs. Its resolution was strengthened by the large numbers of lairds and gentlemen whom it employed in these negotiations. (B.U.K.p.436)

The Government thought the occasion merited a special missive admonishing them to do nothing to imperil the King's peace, and that the policy might not be formally decided until Parliament had passed its opinion. Was the Government afraid that the ministers united with the lairds and hoping for the concurrence of the Convention of Burghs might form a national Convention which would establish the new System in defiance of the Privy Council and these augmented meetings which passed as Conventions of Estates, but from which in practise both burghs and barons had been excluded.

(2)

The Civil authority admitted the power of propaganda which in the absence of any newspapers the pulpit wielded almost as a monopoly. But the Kirk had evolved a system from which it was not to be dissuaded while it agreed to send delegates to the King with a

(3)

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- (1) B.U.K.p.428. The letter was brought from Stirling by Duncanson the King's minister
 - (2) Definite summons to individuals had been the former custom, but see Rait.p.148
 - (3) It did not recognize the Parliamentary ministerial conference as binding, although it read its decisions to see if it agreed in essentials with the Assembly's views. Spottiswood however regards even the consideration of this report as a breach of faith with the King as expressed in the letter mentioned above. II.p.266

list of Articles and a general exhortation recommending
 the necessity for Union between Crown and Kirk as both
 having the selfsame friends and unfriends, they concentrated
 their interest in the Parliament promised in August, giving
 power to a large commission consisting of Lairds, Visitors
 ministers and "such as should be direct from the burghs",
 to meet two days before the Parliament and prepare articles
 for presentation, with the full authority of a full General
 Assembly. This collaboration with the Estate of the Burghs
 and the Lairds may indicate an attempt to weld together a
 "Third Estate on the model of the English Parliament", and
 possibly make the Assembly a "Scottish House of Commons".
 But the effort was not successful, for the Parliament was
 prorogued to October. Some relations however may have been
 established with the Convention of Burghs. The meeting of
 August was not therefore the ultimate Court of the Realme
 which the Assembly had looked for but merely another
 Convention of Estates on no real national basis and the
 Kirk affairs with which it dealt were those articles which
 the Assembly had sent to the King almost as temporary measures

(4)

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- (1) No children to be sent to Papist Universities under penalty of fine; punishment of Jesuits; the reform of the University of St. Andrews; and a request that the King impede not the acts of Assembly B.U.K.p.437
- (2) B.U.K.p.442
- (3) ibid.p.436. 10 lairds 6 ministers, 25 commissioners of countries and the burghs
- (4) A joint commission for visitation of St. Andrews was set up but this seemed to be the only direct response. And the Civil Power did overturn decisions of the G.A. in several instances. e.g. P.C.R.III.p.209

The Edinburgh ministry expected to wield more influence on Policy with the return of the King to the Capital, and whether it was due to the organization of this last representative commission or not the Parliament in October responded to the Kirk's demands to an unusual extent. The Kirk obtained definition of its jurisdiction to some extent as much indeed as it had agreed upon in the new policy itself. Acts were passed prohibiting Sunday markets and the other profanations of the Sabbath, and graduated fines were imposed. Execution of these acts was not put entirely into the hands of the Kirk, but a special commission was granted to "sum person in every parish best affectit and maist able to performe the same at the requeist of the minister". This person would in most cases be the local magnate or his bailie, and if no such person was at hand it is to be presumed that the duties fell upon the most suitable person who in course of time came to be known as the Session Bailie.

Regulations were also made at the Kirk's request concerning the education of youths abroad to prevent their conversion to Papistry.

(3)

Jurisdiction and education thus dealt with the

(1) Preaching, correction of manners and administration of the sacraments. But a special committee to define still further contained 5 leading ministers nominated apparently by the state. Dun, Spottiswood, Craig Lowson, Lindsay. in addition to Adamson the Bishop of St. Andrews, 4 commendators and 4 earls. They were to meet and report to the next Parliament (A.P.S.p. 138 cap. 7)

(2) *ibid.* cap. 8

(3) cap. 9 cf. B.U.K.p. 437 art. 1

Kirk directed itself to redeem its former pledges to the poor labourer and the beggars. The result was the act "for releiff of the Laboraris of the Ground for want of tymous teinding of thair cornis"

(1)

The Kirk influence was responsible for the famous act of this Parliament which laid down a precise system for the restraint of masterful beggars and the support by taxation of the parish for the native poor but the administration which by the act of 1574 had been entrusted to the Kirk Sessions in towns and the "Headsmen" in rural parishes was removed altogether from the Kirk and given over to the Magistrates and the King's Justice or the ~~bathe~~ of Regality.

(2)

The Kirk in fact pointed the way towards progress by insistent demands gradually making headway in the face of the indifference of the Government and Central Authority. The acts of 1574 and 1579 were the only contributions of any note, towards responsibility for the poor, since the Act of 1535.

(3)

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- (1) A.P.S.III.p.139 cap 11 cf. Satirical Poems passim
If not lifted after 8 days after cutting, two honest neighbours might apportion the teind without waiting.
- (2) A.P.S.III.139 cap.12 All beggars must return to their own parish, and none was to beg without licence, and none to beg at all unless the parish was too poor to support them. The Magistrates and Justice were to stent the parishioners proportionately. and stringent punishments were enacted for contravention. (See Act for details)
- (3) J.Horsfall Turner. History of Local Taxation pp14-16

The Parliament was thus a willing ally of the Assembly, probably because the burgesses who were common to both Parliament and Assembly were interested in these schemes affecting the social and economic life of Scotland.

The tendency was certainly to minimize the influence of the Church in the administration of these acts, but on the whole there was no burning question involved whereby the Central Authority might feel its power challenged by the growing pretensions of the Kirk. In the case of jurisdiction where the danger was most acute the Privy Council by particular decisions took care that the Church did not establish precedents.

(1)

Yet in the execution of all these Acts before long we find the Privy Council calling in the advice of Bishops Superintendents and Commissioners in the nomination of Justices for the administration of acts anent swearing, disturbers of divine service, those under process of cursing, for the discharge of Sabbath markets etc and even for the act anent beggars. The commissions given to these nominations were only for a year. It showed however that the Kirk organization was more effective than the civil courts in the country parishes. The same efficient organization which during the Civil Wars of the next century was utilized for all purposes even for that of taxation.

(1) See P.C.R. III. p. 239

(2) Ibid. p. 266 13 Feb. 1580; p. 277 10th April 1580

10.

With its power over the masses by its system of propagation of news and the creation of a public opinion, by the superstitious awe attaching to its censures and most of all by its alliance with the fighting force of the country-the lairds, the Church was a force to be placated. (1)
even by the royal favourite

The General Assembly met in Dundee on 12th July, and although the King's Commissioners were present prepared a list of grievances for presentation to the (2)
Supreme Authority. These articles were the combined effort of the Moderator and the recently instituted body of Assessors. There can be traced the beginnings of that careful watch over foreign and domestic policy which for some years made the Assembly a far more effective check upon the Royal Prerogative than ever the Parliament in its best days had achieved. The delegation to which they entrusted their proposals was a body representative of the three estates of the Assembly, Lairds Ministers and burgesses. Most of their requests had been part of the

(3)

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- (1) cf The establishment of a Kirk Session in the Royal Household. see P.C.R. III. 8th Feb. 1580
And Lennox assurances to the Assembly of July. B.U.K. 456 and 458. see Matheson. I. 222
- (2) Laird of Lundie, and Prior of Pittenweem. Their commission was dated from Falkland. The King was on one of his progresses. B.U.K. p. 452
- (3) Lundie Braid Colluthie Keirs Carlton; J. Johnstone (Edin.)
G. Elphinstone (Glasgow). R. Blyth (Dundee) 11 ministers
6 of whom were of the Edinburgh clique.

Kirk's programme for several years and were directed to definition of the ministers position, suppression of superstition, and establishment of the Policy, while the interest in printing and the support of worthy printers was now an accepted interest of the Assembly. But they did more than this. They questioned the treatment of the imbecile Earl of Arran on purely humanitarian grounds -an expression of public opinion which could make itself known in no other way. No record of these petitions or how they were received is preserved in the Council Register.

That no answer had been forthcoming is clear from the fact that in the very first session of the next Assembly a committee was sent to the King to urge the attendance of representatives in his name, and to suit for answer to the Articles of the last Assembly. The King and Council promised answer before the 15th of November, and accordingly the Assembly appointed a Commission to await upon their decision and to reason and confer with the Council on all articles given in since the last Assembly with power

- (1) Punishment of those assaulting ministers; those deposed from the ministry to be automatically deprived of benefice all vacant benefices to be given to the minister serving the cure. etc
- (2) Punishment of Pilgrims to shrines etc
- (3) The Policy to be established by act of Council until a Parliament met
- (4) The Council was asked to take order with the printer Arbuthnot who had not fulfilled his contract. The Kirk patronage was transferred to one Vautrolier
- (5) B.U.K.p.462
- (6) The commissioners found the King at St.Andrews.J.M.p.81
- (7) Braid, Mc.Gill, Smeaton Lindsay Hay and John Young.B.U.K.464

to "conclude" in the name of the Kirk. So anxious were they for a joint settlement of the new scheme that the Clerk Register's advice was requested in the formulation of the arrangement of Presbyteries. The committee which (1) was given such wide powers consisted of 13 ministers, one burgess (John Preston of Edinburgh) and 4 lairds: Braid Lundie Halton Fawdonside (2)

The Council Records contain no account of this important meeting on November 15th, and there seems to be reason to believe that a separate register for these Kirk Conferences was kept. But it could have borne but (3) little fruit for the same demands were made in the Assembly of April 1581. Irritation at these delays was responsible for the "treasonable" outbreaks of the Edinburgh ministers Balcanquhall and Durie.

(4)
The fall of Morton, the ascendancy of Aubigny, the dread of Papistry evinced alike by the English and Dutch ambassadors drove the ministry to intrigues with England. The pulpit became the mouthpiece of an English policy so obvious that the ministry lost some of their popularity. Scottish nationalism resented the interference of (5)

a foreign power in its domestic affairs.

- (1) B.U.K.p.470 The records of this Assembly containing the accounts of the submission of the various bishops were destroyed by Adamson a few years later. 1584
- (2) Row gives the number as 20. p.365
- (3) Records blank Oct.21-Nov.16. The Assembly began its sessions 20th Oct.
- (4) C.III.p.480 P.C.R.p.335
- (5) see C.III.p.509 The libel against Randolph "Moreover how yee blind our poore ministers of Gods word and caus them vaig full off from their text by your instigation

The King's Confession of January 1581 was an attempt to remove suspicion, and in the Assembly of April the rolls of Presbyteries were submitted by the Royal Commissioner. The Privy Council and King were in Holyrood but the Assembly at Glasgow and negotiations were therefore formal.

The Laird of Caprington, his representative, submitted the answers to the last articles but as already noted some of the same petitions were "yet to be insisted in at his Hienes hand and counsell

(1)

The King's point of view was expressed in a series of Articles. Although willing to support the establishment of Presbyteries and appointing the noblemen and gentlemen to define the bounds, he repudiated the suggestion that the 1567 act be restored owing to the great confusion and diminution in rental which had taken place since then. While agreeing to admit conference on the main lines of the policy he stated that answer to the majority of the unanswered Kirk articles was difficult for they were couched in too general terms and so open to many interpretations. Definition was necessary before any could pass into formal acts of Parliament. The King advised that a committee of Assembly be appointed to "consider the expansion of thes articles in sick forme and ordour as they wald wisch them to be past in Parliament"

(1) f. 86 That a special judge be appointed to try assaults upon ministers; That an act of Parliament be made as to the deposition of ministers from function and benefice etc.

This seems to imply that the Church was to draft its Acts in a final form before submitting them to the Articles or Privy Council. The Church demands certainly had up to this (1) time been extremely vague, and the kirkmen frequently evinced a lack of practical statesmanship and appreciation of concrete difficulties of detail. Thus the King asked what they meant by a "reasonable" proportion of the Kirk rents which were to go to the support of the Crown that is pre: suming all the "auld possessors" were dead; or until that consummation took place what "reasonable" sum the Church would suggest for the King's household and public affairs if the act of 1567 were re-established.

The Kirk too in its demands had overlooked the question of taxation and how the proportion of it was to be met if the Kirk got all its demands. (2) The possessors of the two thirds were apparently still liable for the half of the national extraordinary revenue. If Bishops were removed from Parliament what was to be the result? Spottiswood points out that "it was a foolish thing to think that the Prince and Estates would permit the rents of the Bishops to be disposed at their appetites". No sooner were the abbots and priors declared to be no officebearers in the church than the lands were turned into temporal lordships and the whole rents were thereby alienated completely (3)

(1) see. Rait. p. 426

(2) B.U.K. p. 479 The step was apparently in preparation for the tax which the King was contemplating in the next Convention. Rait. p. 492

(3) Sp. II. p. 272

James proposed a graduated scheme of stipend for 600 ministers, and that these 600 parishes should be divided into 50 presbyteries, but his suggestions were not apparently accepted and his proposals as a whole regarded as a device to drive time, and the Assembly refused to permit any further alterations in their Discipline and registered their Policy in their formal acts. In point of fact much could have been done towards definition. Its vagueness left room for a good deal of unofficial interference in the realm of the Civil Power. The King's proposals however were delegated to a Commission's consideration in the old manner during the interval between Assemblies, who had power to convene with any deputies of King and Council and to prepare all articles in Parliamentary form in the exact terms in which they wished them to become statutes. The completed form was to be presented to the next Assembly.

The commission was composed of nine ministers only, and there are evidences of their attendance in the Privy Council itself for the furtherance of their purpose. Matters were thus amiably arranged by the new government with the intention of removing any church sympathy for the cause

of Morton. That there was no real principle behind it was

(1) See Connell. I. p. 97. Petrie suggests that these proposals were not the King's but the Kirk's. p. 410. See Row. p. 370

(2) B.U.K. p. 513-4. P.C.R. III. p. 377 30th April. when gifts of benefices were suspended until Nov. 1st pending a final decision. Montgomery's appointment was a direct violation of this.

May. 9th Execution was given of the King's letter to the noblemen barons gentlemen and ministers to appoint committees in each district for the determination of Presbytery bounds cf. P.C.R. III. p. 383 and B.U.K. p. 520

20~
evidenced by the appointment of Montgomery in July to
the see of Glasgow. The Church attacked not the corrupt
bargain but the appointment itself. Yet by the arrangement
of Leith the King was perfectly entitled to create bishops
and it had not yet been formally repealed by Parliament.
It was a remarkable feature how early the newly erected
Presbyteries began to exercise their power.

In October 1581 Parliament Convention of
Burghs and Assembly all met simultaneously in Edinburgh
the two latter bodies according to their custom, a few
days before the Parliament. (1) Although the request for Royal
Commissioners was not immediately answered, the King obtained
postponement of the case against Montgomery until he had
placed the constitutional question before the Kirk. He asked
how, since the Kirk was determined to abolish Bishops, they
proposed to replace the ecclesiastical vote in Parliament and
Council with particular reference to taxation. The five or
six ministers (2) who had been coming and going between Assembly
and Council were not deemed sufficient for deliberation on
such a momentous problem. Eight other ministers were added
and an important lay element consisting of 12 lairds and

the Provosts of Edinburgh and Stirling, the Commissioners of

(1) He disposed it again to Lennox in return for £1000 Scots
(Spottiswood. II. p. 282)

(2) G.A. met 17th Oct. on the same date as the Convention of Burghs
Parliament met Oct. 24th. (A.P.S. III. p. 193) R.C.B.I. p. 121

(3) B.U.K. p. 525-526

(4) ibid.

Edinburgh and Stirling Perth Montrose and Leith (whose position in the Assembly was a curious one since it was never a Royal Burgh). There is reason to believe that the interaction between Assembly and Convention was considerable and the inclusion of this burghess element was probably an attempt to pre-determine the vote in Parliament should the question of Ecclesiastical Vote arise. Some of these Burghs who attended the Assembly seemed to prefer it to their own convention and were accordingly unlauded.

(1)

Their decision held within its possibilities for lay representation in Parliament. It was not till 1587 that it insisted that none should vote in Parliament unless they "bore function in the Kirk by preaching of the word and administration of sacraments". And the idea of the elder as a Commissioner of Parliament revived again in the struggles in the last years of the century. In this present case however there was no distinction made and the formal record states that "Commissioners from the General Kirk should supply the place of the Bishops" and their powers of civil and criminal jurisdiction were to be

(2)

(3)

(1)

See previous section on the relation with the Convention of Burghs.

(2) *Railt.* p. 175-176

(3) *B.U.K.* p. 527. James Melville p. 119 "Commissioners should be directed from tyme to tyme from the Generall Assemblies to the Parliaments to discharge the Kirkes dewtie and do for the sam in all hir affaires. And the heretable baillyes of Regalities should use all thingis pertening to ther jurisdiction civill and criminal causses.

handed over to the heritable bailies i.e. the lairds.

The representation implied was not to be a fixed and permanent one but to vary from time to time. Are there traces of the lairds aspirations after Parliamentary representation through the medium of the church, as their influence was plainly to be seen in the question of jurisdiction.

The Assembly heartily approved these conclusions and the decision was made known to the King's Commissioners.

It was probably the consciousness of its increased power by reason of its important lay element that induced the Kirk to mediate for the return of the Earl of Angus (exiled for the cause of Morton) but although the King recommended it to the Council it was negatived by both Council and Parliament
(1)

In the case of doctrine of ministers such as Durie to whose trial by the Council the Kirk had objected the Assembly took over with the King's consent the trial of such cases itself, a considerable gain for the Melvinian
(2)
theory. And although agreeing to postpone the question of the actual appointment of Montgomery they had the King's consent to proceed to any other charges they might have against his life and doctrine. (3)

(1) B.U.K.p.530 Craig presented Angus letter to the Kirk, to the King, who told him to take it to the Council.
See P.C.R.p.425 21 Oct. and A.P.S.III.p.194

(2) B.U.K.p.529

(3) ibid.

Unity and a common policy was essential among the members of the Kirk particularly the baronial lay element, if the Assembly was to make any impression upon government. There is perpetual reminder in the Kirk Records that unanimity was always aimed at and that a majority vote was somewhat suspect. In the days of the Civil War a minority was persecuted. The Assembly would not tolerate difference of opinion within its own Estate. This desire towards unity is to be traced in the article which urged the Council to take measures to reconcile feuds and on their own part nominated elders and ministers to "travell" between the most notable offenders. This in fact with the formal establishment became an acknowledged (1) part of the Presbytery's business and the greatest pains were taken to reconcile local magnates even to the extent of appealing to the Conventions of the Shires.

But now with the approach of the Parliament the Kirk became active to prepare those formal articles which were to pass into acts. Its endeavour to win over the Council is attributable to the fact that it was almost a general rule that the majority of the council were nominated for the Lords of the Articles. The hope of the Kirk lay in the burgess quota on that committee and there was a deliberate attempt to obtain its support by deference to the burgess element in the Assembly itself.

(1) B.U.K. p.538

741

In the preparation of the Parliamentary Articles the concurrence of the Council was invited, but pressure of Council business prevented any very close connection although conference on the question of Montgomery and the Bishops seems to have continued

(1)

The inferior courts sent up through their Synods several articles which were accepted by the Assembly in their official programme. Particularly those of the Synod of Lothian were of value but the Assembly took care to follow the royal advice and arrange them formally. Most of them indeed passed into the Statute Book with little alteration

(2)

The Assembly was now on the point of dissolution. Parliament had met on October 24th but little business was done before the appointment of the Lords Articles which took place on Oct. 30th. The Kirk accordingly in its 20th Session delegated its function to a large committee, with power to submit the Ecclesiastical Articles to the Lords and to treat and confer on these points and on the policy if need be until the next Assembly. The Committee was representative of Ministers lairds and burgesses. i.e. the ministers of the King's house, the ministers of Edinburgh and 11 others, only

(1) See B.U.K. p. 543. See Matheson. I. 224 225

(3) On the 25th the Privy Council had confirmed the agreement of Leith in spite of the Conference (P.C.R. III. p. 427)

(2) B.U.K. p. 540

two lairds (Braid and Fawdonsyde) but seven burgesses representing Edinburgh Dundee Aberdeen Perth Montrose and Burghs which might easily be appointed on the Articles and of whom at least three were so appointed.

In addition to the formal articles a petition in General terms was also prepared "that no acts be past in Parliament prejudicial to the word of God, particularly on the question of the Bishops, with sharp admonitions therein". Both articles and petitions were ready by the 28th and the Assembly then dissolved. Pending the settlement (1) Bishops took their wonted place in Parliament and the full quota of ecclesiastics was present in the Articles.

(2)
Although no extant list of the Articles as presented by the Kirk survives the list of Acts of Parliament I-XVIII represents considerable gains. An (3) important concession reversed the union of Kirks instituted by Morton and decreed that each parish must have an adequate stipend which must be assured before any prelacy be allocated

(1) B.U.K. p. 546

(2) A.P.S. III. p. 195 See James Melville. p. 121 for the position with regard to Adamson

(3) e.g. Lothian's article on the prohibition of pilgrimages was answered A.P. p. 212 cap 6 (graduated fines and a death penalty. Execution was given to the Civil Arm. Another Lothian article on definition of the act against adultery was answered p. 213 cap. 7
All this besides ratification of all Kirk privileges in general.
See also Row. p. 372

To execute this a Commission of Parliament, 6 Lords 6 Burghs
 3 Bishops 3 Commendators, 9 officers of State and the
 Collector General of the Superplus was appointed to meet
 annually with the Commissioners of the Church for modifying
 appropriate stipends. An act entitled the "Revocation of
 the Collectorie" explained the financial situation. The
 third it said in the beginning was divided but the Crown
 being served first the ministry got little. Then by the act
 of 1567 the church took over collection and any surplus
 was given to the Crown, but corruption entering in 1573
 a special assignation of ministers stipends was made
 and the remainder passed to the national finances, but always
 on the understanding that when more ministers were available
 they should be paid out of this surplus. Most of the surplus
 however had been dissipated in pensions and exemptions
 so that public expenses got little relief and likewise
 augmentation of stipend was very small. All these grants
 out of the surplus were now revoked and the Collector
 General instructed to raise the original superplus after
 the modification of stipend by these new modifiers.

(2)

James made this munificent gesture to placate the
 ministry for his refusal to consider the removal of the
 Estate of Bishops. But for this he was willing to use all

(1) A.P.S. III. p. 211 cap 2

(2) ibid. p. 244 cap. 70

his civil authority in execution of acts for blasphemy fugitive papists the dissemination of papist books and prohibiting the resort of Papists to the Court. The last of these like most Scottish statutes was never rigorously enforced, but the influence and repeated endeavours of the Church and the Presbyteries had a salutary effect upon the habitual disregard for existing law.

A number of Kirk articles were among those referred to a committee which was virtually the same as that for modification of stipend in fact a slightly augmented Privy Council. Noticeable among these was an article concerning the marriage of children without consent of parents which had come up from the General Kirk Session of Edinburgh through the Synod of Lothian had been accepted by the Assembly and was now undergoing consideration by the Committee of Parliament.

(2)

(1) A.P.S. III. p. 214 cap 9. Adultery, prebendaries, deposition from benefices, Marriages without consent of parents, consideration of reform of universities, the Bishop's supplications for Consistorial jurisdiction, etc

(2) see General K.S. of Edinburgh. Jan. 13 1575 It had taken six years to reach Parliament.

NOTE Petrie is eloquent upon the situation. He says that up to this time there had been no variance between King and Kirk. (Morton in fact had done all negotiations) His commissioners had accepted the Policy except on the head of diaconate upon which the Kirk itself was divided. He says that his commissioners consented to the registration of the Policy in the Acts of Assembly(?). Bishops at that time were subject to the Kirk and were used to supplicate against that very Episcopacy. This was true of Adamson. "But neither could the Book of Discipline be established nor Episcopacy forbidden by Act of Parliament not for any respect of discontent against Discipline or for restoring Episcopacy. But merely on account of Civill Interest and securing of possessions depending on the title of Bishop." In this the first cause was Lennox and his claim to Glasgow. Yet "notwithstanding that little variance" he

(contd)

James Melville at this very period exalts the Assembly for its discrimination in matters brought up by Presbyteries and Synods. From his point of view the "best" as represented by his uncle and fellow zealots of Fife and Lothian guided the Assembly at their pleasure. The moderate party did not make their presence felt in Assembly until the King insisted upon definition of its constitution, and so removed the tyranny of a group which in its methods was as autocratic as their opponents the King and Council.

Thus as regards this Parliament the representative Commission of the Kirk had been as far successful as they could hope in view of the King's determined support of Episcopacy. With a permanent Court at Edinburgh the importance of the Edinburgh ministry and their power of pulpit propaganda increased. In Court disputes each party (1) tried to control this method of influencing public opinion

NOTE (contd)

he deserteth not the ministers but procureth sundry acts in favour of ministers and against impiety and superstition. He says that although the assignments seemed small the prices for victual were good. The power of the Superintendent had by this time he says completely devolved upon the Presbytery and Synod. (History 3. pp416-7)

- (1) e.g. the quarrel between Lennox and Arran. The former renewed his profession of the true religion (P.C.R. III.431) Arran tried to win the Kirk's favour by feigning a desire to recall Angus in whose cause the Kirk had already attempted something. The people believed that the ground of Arran's fall from grace was his sincerity in religion. "In time of discord he flattered the ministers to procure their friendship but after their reconciliation loath was he to displease the Duke for any man's pleasure (Calderwood III. p.594)

The ministers were looking for a lay leader but Arran was too profligate for their purpose. It is significant that his rival council at Holyrood contained the Gowrie faction in which the Kirk later found the solution for the situation⁽¹⁾ The crafts who were most ready to rise were also of his faction. If what Calderwood **hints** is true the ministry must be held to have planted the first seeds of the Ruthven Conspiracy. The individual sympathies of ministers often⁽²⁾ pledged the Kirk to schemes which the Assembly had not dictated. The ministry especially that of Edinburgh embroiled themselves and the Church in intrigues for which their sole warrant was rather doubtful "inspiration". But the feud being patched up both factions united in attacking the policy of the Kirk with regard to Montgomery. The church was backed by the Lothian Lairds. Davidson in fact had a scheme for⁽³⁾ eliminating from the Council the opponents of church policy by summoning a committee of Lairds and ministers to point⁽⁴⁾ out to the King his "enemies" but this did not materialize

(1) See Masson's Introduction P.C.R.III.p.xlii and note p.435

(2) These ministers blamed the nobilitie very much as unworthy of their places who suffered the King to be...at Dalkeith alone with a stranger (Lennox)...adding that the mater might be reformed weill enough with quietness if they wold doe their dutie! C.III.p.594 Davidson the prince of agitators hinted more broadly to Ruthven by suggesting that retribution was intended by the Lennox faction against him for the murder of Rizzio. C.VIII.Appendix.p.213

(3) C.III.p.597 The rupture was ended by 1st Feb. 1582. It had first become obvious at the Oct. Parliament

(4) Lundie Braid Dun Pont Lowson. C.VIII.App.p.214

The Kirk had not really tested its final weapon of excommuni-
 :ication which in fact in most cases depended for its effect
 upon the civil penalties of rebellion attached. (1) Montgomery
 with the supreme civil magistrate on his side was practically
 immune. The first great struggle for the ultimate jurisdiction
 was initiated by the King's express inhibition to any Church
 Court to proceed against the Bishop for any cause, and the
 challenge was responded to by the protest of Pont (2) and others
 against accepting the King and Council as competent judges (3)
 James stood by the Leith agreement but stated that since the
 Dean and chapter had neglected to elect the Bishop that the
 appointment had lapsed into the royal gift.

Relations between Assembly and Civil power in (4)
 this and the following Assemblies were not normal. Andrew
 Melville was moderator in the Assembly which met in April 24
 in St. Andrews and in his attitude to the Civil authority
 went to the extreme of his doctrine of the division between (5)
 the Temporal and Spiritual powers. Negotiations were by letters
 brought by the King's Commissioner Mark Ker Master of Requests
 Forbidden to proceed, all that the Assembly would grant was (6)
 that the Kirk would contain itself within its own province
 and treat of nothing concerning the civil power, but of course
 the flaw in this reasoning was that the church itself was

judge of its own province and its bounds. They were accordingly

(1) The act of Parliament of 1573

(2) P.C.R. III. p. 468

(3) P.C.R. III. p. 477

(4) ibid. p. 474 22 April

(5) B.U.K. p. 548

(6) see C. VIII. p. 214

discharged from proceeding under pain of rebellion but in spite of this proceeded to the formal sentence of deprivation and excommunication, and all that the Royal messenger could obtain was a short delay until the King could be advertised. He was entrusted with a letter from the Assembly containing the Kirk's justification. A final struggle was averted by the unexpected submission of Montgomery. But the Church had definitely laid down its dogma and entrenched itself behind a principle of independence of the Civil Government which was a landmark in the history of Scottish constitutionalism.

(1)
(2)
(3)
Interaction on other points was provided for by the presentation of a series of reports and articles from the King by his Commissioner, involving discussion of the acts of the late Parliament of October, and the negotiations of the Kirk Commission with the Lords Modifiers then appointed. The majority of the points raised were purely technical, but others involved problems of the policy.
(4)
(5)
(6)
(7)
The more difficult the Assembly remitted to a committee of

(1) SEE.C.VIII.APP.p.214 et seq. (2) ibis.B.U.K.p.565

(3) "That no man pretend to ecclesiastical function office or benefice be any absolute gift collation or admission of the Civil Magistrate or patrons be letters of horning... and that none be and received to an ecclesiastical office or benefice seek any way be the civil power to excommunicate and withdraw themselves from the jurisdiction of the Kirk. ...nor procure letters to hurt or stay the said jurisdiction....nor to make any appeal from the General Assembly under the pain of summary excommunication without process or admonition.

(4) e.g. the Act against Papists.A.P.S.III.p.213 cap 8. The Church passed an act making it more effective whereby all masters of ships were to report the names of their passengers to the Magistrates and Kirk Session under pain of excommunication. B.U.K.p.550 contd.

their own members to consider and report before the next Assembly, but sent a delegation or commission of 6 ministers all of the Edinburgh district, to inform the King of their proceedings in this respect and to deplore the infringement of Kirk rights in the case of Montgomery. They took with them a document containing the "causes of a fast" which they were to communicate to him. These Causes indicated that the Assembly firmly believed that a Papist plot was afoot, and by questioning the "evil company" kept by the King seemed to assume an unwarrantable right to criticize ~~the~~ appointment of his officers and household. The commissioners were, as it were plenipotentiaries from an external power and they had instructions to sound Arran Lennox and Gowrie as to their attitude to the Kirk jurisdiction. Wide powers of discretion were given these 6 commissioners and it is not at all unlikely that in their negotiations with the last named lord that the idea of a minor revolution presented itself. Opposition in the Scottish system expressed itself in a raid upon

Notes. contd. from previous page.

- (5) B.U.K. pp. 552-553 They dealt with the new Assignations and also with some of the Kirk Articles remitted to them by Parliament
- (6) cf. pp. 553-554 and 555-556 *ibid.*
- (7) *elg.* The position of Readers whose official position was now no longer recognized in the Church, and what stipend should be assigned them
- (b) And "to quhom think ye the King's Majestie and lawit patrons sould direct presentations". The Assembly did not insist upon the Presbytery but compromised by suggesting the Commissioners of Provinces as a temporary expedient.
- (c) The Kirk also claimed that it alone had power to depose and a list of causes of deprivation was prepared

the King's person, and if the Assembly as the Counter Parlia:
 :ment could not effect their plans otherwise they were
 ignorant of any other constitutional method. Like most
 parties in opposition ^{their.} it directed attention to the oppress:
 :ion and contempt of the poor, but their own practice in
 discipline showed that they were very far from the demo:
 :cratic ideal of the equality of all believers before the
 law. They did not regard the opinion of "the baser sort"
 and they still clung to a feudal principle. The provisional
 date fixed for the next Assembly indicated that the Kirk
 was prepared to summon this Counter Parliament upon
 "necessar occasioun". Judgment of this occasion was left
 (1)
 in the hands of the Edinburgh Presbytery, This body containing
 the majority of the extreme ministers, leaders of the
 movement, was just beginning to take its place as the
 permanent Commission and Privy Council of the Kirk.
 The Kirk was an opportunist in policy. It was about to make
 use of the feudal ancient Nobility in their jealousy of
 the "new men" whom it remained James' custom to trust and to
 create as dependant upon himself. One of the reasons for the
 fall of the Kirk at the end of the century was the creation
 of a new nobility from the laird class which had formerly been
 the political ally of the church.

(1) B.U.K.p.570 See previous chapter.

The pretensions of the ministry relying upon "inspiration" vitiated the more constitutional method of Commissions for conference. This last Commission of six ministers certainly had conference with the King on 9th May, but any negotiations on a formal basis were rendered nugatory⁽¹⁾ by the private attitude of John Durie who presumed to dictate on matters of foreign policy⁽²⁾ and the acceptance of an embassy from Guise. On the 16th May he returned to give his unasked opinion on the King's marriage. In the absence of a regular Parliament and a constitutional method of demanding responsibility of Government the actual expression of dissatisfaction was a healthy sign but the disadvantage was that it was made by an individual not on constitutional grounds but by right of an assumed divine inspiration which claimed to be above the State.

(1) C.III.p.619 The whole body of commissioners were extremist The King had removed from Stirling to Kinneill

(2) C.VIII.App.219

(3) *ibid.* Even Gowrie so soon to be the hero of the Kirk was summoned before the Edinburgh Presbytery for making "abanquet for the Italian".

Note

The history of King James the Sext. p.188 remarks upon fact that no sooner was there a form of settled Royal Government than the Crown attempted to consolidate its authority by attacking that of the Kirk. "The ministers consavit an opinion that Lennox was a seducer of the King from the established religion; the Nobilitie thought that his great..promotion..was prejudiciall to thair estait, that as thay have been extraordinar correctors of Prencis enormiteis in Scotland rather for advancement of thair awin particulars than for any gude zeale that thay bure the common weill; the nobilitie and ministers con:currit in sik sort togither that the ministers first began to show aforehand to their auditors the yowth of the King abusit be the societie of insolent and gyles strayngers...unworthelie promittit to digniteis above thair capacitie..and thareby licklie to scourge the poore

contd.

The events leading up to the summoning of the next
 (1)
 Assembly in June represent the Kirk's determination to control the appointment of its own leaders independently of the Crown. The excommunication of Montgomery by "le petit diable" Davidson and the expulsion of Durie for his freedom of speech provided the "necessar occasioun" for an Assembly to decide whether he should leave the town. It was indeed something of a blow to the Kirk aspirations that the Town Council and the Deacons of Crafts had agreed to this expulsion. (See Calderwood III. p. 620 and VIII. p. 223. Davidson and Melville were autocratic with the Town Council.)

Negotiations with the Civil Power therefore were of primary importance. The method adopted was twofold. The King was not in Edinburgh, but Lennox and the Council in whose name these "persecutions" had been conducted were. Two Commissioners ministers were sent to the King at Perth or Dalkeith "to know his meaning" and received his assurance of his desire for amicable relations and zeal for religion but insisting upon the right to try before the Privy Council

Note (continued from preceding page)
 which has bene an odious thing in all commonwealthis heirtofor. Bot as God in tyme bygane had punyist tyrannous people to thair shayme and confusioun and had disapoyntit all thair intentions sa thay doubtit not now of his wontit mercie bot that he wald execute the lyke in these dayn: i:gerous dayis! There is no doubt in the mind of the historian as to the minister's complicity. The importance of propaganda from the pulpit as the only "newspaper" is rightly stressed.

- (1) See Matheson, Cunningham and others. for the riot in the Presbytery of Glasgow. P.C.R. III. p. 489 Durie had left Edinburgh but returned for the Assembly's advice which was that he should not again leave until formally charged.

those who were concerned in the riots incident upon the execution of Privy Council ordinances.

Similar delegations went to the Duke who went to the root of the matter when he demanded whether King or Kirk was supreme, and refused to dismiss Montgomery although excommunicated until ordered to do so by the King by whose request he had received the Bishop.

(1)
But the formal intercommunication was once more by means of a commission consisting of 19 ministers; would this infer (2)
that this Assembly contained no lay element. A strong representation of Burgesses and Barons would have given their "Grieves" more force. The Burghs ^{had} just concluded their own convention in Perth; some of them doubtless would come to the Assembly unless they remained in Perth in expectation of a Convention of Estates which they expected on 30th June (3)
The Complaints of the Kirk dealt with the late disturbances and the attack on the Kirk Jurisdiction, but they also included demands for the reform of the Duke's household. The body of the Assembly had taken up the question of the Guise ambassador in no measured terms, in which they censured the reception of the "bloodie murderers and persecutors of the people of God be propynes givin and receivit"

(1) Although Lennox asked conference no official commissioner dealt with him. Lindsay and Lawson went without commission but to no purpose. "All their meetings with the court have been unprofitable thir 15 years. C.VIII.p.222

(2) B.U.K.p.581

(3) R.C.B.I.p.127 They themselves were to petition the Convention by means of 7 burghs. Kirk influence may be traced in the insistence upon testimonials from sailors.

This commission of 19 presented the complaints in the Convention of Estates or Nobility, (although it would seem from James Melville's account to have been merely a meeting of Council) The intrepid attitude of the ministers in face of the antagonism of the Council caused suspicion among the courtiers that they had "some secret offer of assistance" from the Argyle Gowrie Faction. Popular rumour had it that the ministers were to be massacred, and James thought it expedient to issue as a counter blast to the pulpit propaganda a proclamation as to the steadfast devotion of himself and the Duke to the reformed religion while at the same time confirming their action in the see of Glasgow. Attached to this however was the famous proclamation which convinced the Kirk that ~~their~~ liberties were directly aimed at:- "Discharging ony conventiones and assemblies under quhatsumevir title or names quhairby thai may gif occasioun of offence to our Sovereign Lord or his lawis (except his hienes advise and directioun be had tharto) under penalty of rebellion"

(3)

The quarrel between Gowrie and Lennox over the former's conduct of the Treasury flung the Ruthven faction wholly on to the Kirk's side, especially since there

(4)

(1) J.M.p. 133

(2) C.VIII.p.221

(3) P.C.R.p.490 11th July and 492 12th July

(4) C.III.p.632

Curiously enough the Privy Council chose this time to follow the Assembly's suggestion as to reconciliation of feuds in the west. P.C.R.III.p.503

were persistent rumours that Glencairn Boyd Bargarie Lindsay and Glamis were all to be banished along with the Kirk leaders. The ministry particularly the Presbytery of Edinburgh (1) was the storm centre. Thus Bothwell on his arrival from France informed them of a Papist plot and in return received a full account of the domestic situation. The ministers were looking (2) entirely for a Protestant leader. They never lost their sympathy for the unruly Bothwell. The rabble of Edinburgh were roused by pulpit propaganda to attack Montgomery, and the Lords of Session would not permit him to plead on account of his loss of civil status incident upon excommunication. The militant attitude of the Kirk had certainly had the effect of gaining (3) consideration as a political force

The result was the Ruthven Raid in which although the leaders of both were undoubtedly in communication the Church officially was reputed to have no share. Lennox appeal to the barons of Lothian showed a lack of appreciation of the situation. It was worse than useless to (4) attempt to detach them from a party in which the Assembly which they had come to regard as their stronghold, had so great an interest. Yet the Kirk's aims on this occasion were not towards a democracy. The new regime meant the return of the "ancient nobility" The ministers as individuals were (1) C.III.p.633 (2) This took place before he went to the Court with his letters.

(3) ibid. (4) When the Provost of Edinburgh asked the presbytery to mediate between the Lords and Lennox they replied "When the Commissioners of the Kirk went to the Assemblie of the Nobilitie they sauld speike as offered in that case C.VIII.p.224

involved with the English ambassador.

The Ruthven Band and the list of its subscribers show that the baronial lay element most frequently used in Kirk business ~~was~~ of the party, and the Band itself deliberately placed the cause of religion first among their motives for their action. A noticeable feature was the preponderance of lairds from the Lothians. The proclamation of 12 July was interpreted in a favourable sense for the Church, and Durie was recalled. He had been in communication
(1) with Gowrie and was useful in creating a party in the Capital where the Town Council held to the Duke's faction

The declarations emitted by the victorious party had an ecclesiastical flavour. ~~Certainly~~ Lowson and Davidson who were called to Stirling assisted in their composition, for they admonished the Lords to denude themselves of the teinds, and then on the 18th September with the assistance of Hay and Smeaton (also members of the last Commission) and three Lords prepared the "Causes" which were appointed to be signed by Lords and Presbyteries. The aristocratic element is stressed
(3) and the injuries described not as done to the people but to

the feudal nobility (4)

(1) See P.C.R. III. p. 513 A declaration was emitted against wrong interpretation

(2) C.VIII. p. 226 Gowrie's letter to Durie. He was to make as many friends as possible that the gates might be made patent to them.

Two hundred citizens guarded the "ministers nest" against the Council

(3) C.VIII. p. 227. History. James Sext. p. 192.

(4) e.g. the students of Glasgow invaded "all being the sons of noblemen barons and others of good quality" C.III. p. 656

The ministers were active propagandists in the cause. Durie and Davidson commissioned by the Presbyteries and Synod of Lothian went about urging subscription of the Ruthven Band. It looked as if the Church Courts in alliance (1) with the Ruthven faction would become an important factor in the Government of the country. James Melville's denial of complicity only means that the Church as an institution was not officially concerned "whatever the specialles of the Kirk knew". It was only the accomplished act that the Assembly approved. The individual kirkmen assisted in the (2) derogation of the Royal Authority. It was really an unwise policy. Statutes were ill enough executed without diminution of the respect due to the central authority.

(3)
The Court returned to Edinburgh on 8th October the day before the Assembly began its meetings. The Convention of Estates was to begin its meetings on the 19th. Negotiations (4) with the Civil Authority were now on something of the same footing as under the Regency of Morton. Almost at once

(1) C.III.p.675 see Law Matheson pp227-228

(2) James Melville.p.134 The Kirk was nather art nor part read nor counsall in that matter, nather luikit for anie sic thing at thair being at Perth (with the official Commission) And whatever the instruments war and respected, they could not but rejoice...for the delivery of King Kirk and Commonweill...

(3) C.III.p.674

(4) James Melville places this Assembly wrongly in confusing it with the following one of April. In both however the Assembly was frequently kept by the nobility on account of the Convention.p.136
A.P.S.III.p.326. The Assembly had originally been fixed for 24th October but altered to anticipate the Convention (B.U.K.p.584)

the Assembly sent delegates the ministers of Edinburgh to ask the King to send representatives to "see proceedings and vote in his name". William Stewart and James Haliburton provost of Dundee were commissioned by King and Council but with the proviso that they were not to commit the King to any policy without first obtaining his ratification. Continuing the myth of impartiality the Assembly called for the report of the Commission which had been so unsuccessful in Perth, and the replies being obviously unsatisfactory the substance of the "Grieves" was revised ~~to be~~ ⁽¹⁾insisted upon under the new Government.

The Assembly was arrogant in its new found power. The Royal representatives joined with the Assessors and Boyd and the Laird of Caprington to consider the establishment of "some substantial order" on the question of Bishops. Retribution followed fast upon the supporters of Montgomery. ⁽²⁾ They even went so far as to pursue McGill the Lord Advocate held responsible for the fateful proclamation of 12 July. This assumption of the doctrine that officials of the state were responsible for their conduct in office to the Assembly was a dangerous one particularly as the Kirk proceeded against him not as an official but as a private person. ⁽³⁾

(1) B.U.K. p. 588

(2) B.U.K. p. 589 Each Bishop was cited before his Presbytery p. 593

(3) B.U.K. p. 590, 600 see James Melville p. 135 Rait. Parliaments of Scotland. p. 17.

Formal approbation of the Ruthven Raid finally identified the Church with the movement and ecclesiastical censures were appointed for those who would not recognize it. Thus (1) a purely political move was made a matter of conscience. The Church had definitely embarked upon its career as a Parliamentary Opposition. It was agreed that the perils to the Church and State had been imperative and a delegation of Edinburgh ministers went to the King to explain how grave these dangers had been. The King was brought to some sort of an acknowledgment. The complete act of support of "the Noblemen undertakand the late reformation" incorporated the fact of the King's admission of its justice. (2)

The Complete revised articles were in two groups, and comprised demands on all topics connected with (3) the establishment of the Discipline, punishment of the late opponents, provision and protection of ministers, and direction of foreign policy. The one group of 21 articles would seem to have been prepared for presentation to the King Council and Estates, and a commission of 22 ministers was appointed (4) for the purpose. The other group of 11 was prepared for consideration of the Council alone.

(1) Spottiswood says that the publication of this act was "to the offence of many good men who were grieved to see a bad cause thus coloured and defended" II. p. 295

(2) B.U.K. p. 594

(3) *ibid.* pp. 600-603 and 603-605

Lee is curiously silent on the period 1581-83 (Lectures II. pp. 78-80)

(4) Including the Moderator and his Assessors

The Articles to the Estates demanded definition of Jurisdiction so that none might displace ministers without the Kirk's permission; establishment of Presbyteries; and the establishment of Synods and Assemblies to be confirmed by Council pending an act of Parliament, with free liberty to appoint time and place of meeting; the Presbytery to have the powers of the Bishop and Superintendent in designation of glebes etc. each Kirk must have its own minister, and the Presbytery must receive presentations. In the matter of provision the demand was made for the restoration of the Thirds; the deposed was automatically to lose his stipend; old and infirm ministers and masters should be supported, and provision for bursars from abbacy temporalities. Precautions were made against delapidation and other minor regulations. But the most important constitutional claims were put forward both towards directing home and foreign policy. (1)

It was demanded that all Papists should be proceeded against as Traitors, and in the same spirit "that no societie league or friendship be made with the Papists in France Italie Spaine or uther countreyes by (without) common or particular consent" Whose consent this was to be whether Assembly or Estates was not defined. But it was an important claim at a time when foreign alliances were held to within the prerogative of the Crown. Among the particular demands

(1) B.U.K.p.606.

suited from the Council was one that advised that no association or dimission of authority in favour of the King's mother should be considered. Thus the Kirk represented to the Estates its opinion both on foreign and domestic affairs. In the same way it considered the economic situation and demanded that a remedy be found for the res⁽¹⁾oration of spiritual livings and teind which had been erected into temporal lordships; since the feudal nobility was the greatest offender in this respect the suggestion was a daring one. And they broached the question of Kirk Burial which was one of the most frequent causes of quarrels between Presbyteries and the gentlemen.

At the same time the sequence of development of Kirk and Assembly privilege was linked up by the demand that the ministers might enjoy the same privileges against violence and oppression as those granted to the Lords of Session, a claim which would place the ministry on the same level as the Supreme Court of Law.

The 22 ministers to present these demands had instructions to attend upon the Convention until they received satisfact⁽²⁾ory answer. By the 19Session the Commissioners brought back

(1) B.W.K.p.607 (2) *ibid*.p.604

(3) It is not clear whether this was a reinforced Council or a full convention. The Articles to the Council show that the Assembly differentiated for the Demands there are on particular points dealing with the repudiation of the "Proclamations" and demanding particular punishment for the riots. Although curiously enough it is under this section that we find the repeated demand for the resoration of the imbecile Earl of Arran.p.607 See Convention A.P.S.III.p.326 Moysie p.40; Sp.II.p.295

a definite request for advice, "Quho sould sitt in thair names (the Kirk) to vote in Counsell or Parliament seeing they are upon the ordour taking of a Counsell consisting of thrie Estates". The Assembly had laid down the dictum in October 1581⁽¹⁾ that commissioners appointed from time to time by the Assembly might replace the Bishops as the third Estate. The problem was of such moment that it seems that the whole Assembly transferred itself to the Council Chamber where⁽²⁾ presumably the whole Convention was sitting there to receive the formal offer "Whether if the Kirk will aggree that some of the Bishops be upon the Counsell for the Kirk". The Kirk as a body did not remain in the Convention to consider the issue but withdrew to its own chamber where it was resolved that "they could not aggree that any sould vote in the name of the Kirk there but they that bearis office in the Kirk and are authorized with Commission of the Kirk to vote and sit there"⁽³⁾. They were therefore prepared to receive some elective principle, and it is noteworthy that the laird element as Kirk representatives are not yet ruled out. "Office bearers" included elders and in the country parishes the elder who attended Presbytery and so was eligible for election to the Assembly was always a "landed man". It is probable that the barons hoped to enter Parliament in some such way. Although

(1) See supra p. and James Melville p. 119

(2) B.U.K. p. 606 20th Session i.e. about the 20th October. The Assembly usually met in the Nether Tolbooth, the Convention would be in the Upper Chamber. Communication was therefore easy of. The libel against Knox which fell from the Upper House where the Lords were sitting into the Assembly House. C. III. p. 43

(3) B.U.K. p. 606

The reconstituted Council in spite of this contained the Bishop of Orkney and two commendators appointed by the Civil Authority, and in the Convention itself the Ecclesiastical Estate was represented by the Bishops of St. Andrews, Orkney, Dunkeld and 9 titular Abbots. Spottiswood (1) says that the Burghs as a whole were not in Sympathy with the movement and sent no commissioners; they were probably (2) anxious as to their foreign trade and their own Convention of Assembly did not meet till November 8th. Thesederunt certainly does (3) not mention them although it records the presence of Barons in great number. Moysie on the other hand states that the burgesses were at the Convention and from notices of individual burghs e.g. St. Andrews and Glasgow it seems clear that although the majority of burghs might not approve the change a few at least did sanction it in the Assembly, although Edinburgh's reluctance to accept the Act of Approval is thus explicable. (4)

The carefully prepared "grieves" however received little consideration in the Convention and the effort to control policy was apparently disregarded. The main Church complaints were "laid by till another time the Lords not willing to irritate the King for such matters having once secured themselves" (5) π

(1) P.C.R.p.522 26 October. A.P.S.III.p.326

(2) Sp.II.p.296 (3) R.C.B.I.p.139

(4) C.III.p.679; Petrie.Part.3 p.425

(5) Sp.II.p.296

The Convention in fact was disappointing. Although it approved the enterprise it did not sanction the carefully prepared "Causes" and did nothing for the Church. It established however a guard for the King and the Ruthven Lords consisting of 200 horse and 200 foot a body with which the Kirk finances in time were to be closely related.

(1)

The Commission of the General Assembly had power to attend upon Council and Estates until a satisfactory answer to the Articles was obtained. In point of fact the Presbytery of Edinburgh which was largely represented on that Commission was the real body from whom the Government asked advice. Thus on the question of the Earl of Arran (Stewart the ministers of Edinburgh were asked to attend the Council for consultation. The Presbytery was already accepted as the Privy Council of the Kirk which should give the extraordinary summons for Assemblies. Perhaps they regarded themselves as extraordinary members of Privy Council when they took it upon themselves to warn the King against the French ambassador.

(4)

In their conferences with King and Council a Laird was sometimes employed. David Lindsay the politician of the Edinburgh group seems to have had an appreciation of the situation which

(5)

(1) A.P.S. III. p. 328 (2) C. III. p. 693 17th and 26th December
(3) e.g. C. VIII. p. 233

Braid attended with Pont Lowson and Davidson and Lindsay
(4) C. III. p. 697

(3) See previous section.

Davidson and the zealots lacked. At a time when an omission
of a point of courtesy could alter alliances the vitup:
erations emitted by the preachers, and their specific
prohibition to the godly to attend the banquet offered to
de la Motte Fenelon and his colleague Manneville must have
caused the Lords of the Government considerable diplomacy
to counteract. The King in fact had attempted to silence
their protests until it was clear what the ambassadors had
to offer (probably in the interests of Burghal Trade). Lindsay
did his best towards the same end and Bowes the English
ambassador dissuaded Durie and Davidson from the extremes
of invective but Lowson's diatribes gravely offended Fenelon
and although Thomas Smeaton at his request held conference
with him the majority of the Presbytery or Commission looked
askance at any kind of communication. If the Government did
not accept their views on foreign policy the Commission was
doing its best to compel them to a practical acquiescence
At the Conventions of the Lords Reformers formal or informal

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- (1)a. "He said "They may now foster the variance which is
among your nobilitie and move you to variance with
England and wherto tendeth all this but to the destruction
of religion"C.III.p.697 Lindsay to the King.
 - (1)b. ibid.
 - (2)The ministry had reason to fear the ambassador for he had
a list of embarrassing questions to ask with regard to the
change of government and whether the King was a free
agent in the matter. (see History of James the Sext. p. 193)
 - (3)C.VIII.p.231 Jan.8th 1583
 - (4) e.g. C.VIII.p.238 C.III.p.700

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the ministers of Edinburgh seemed to have a right of entry but they were probably there as individuals and not as representing the official commission of the Church.

The Church Courts became more open in the means they used to bring pressure to bear upon the King who in spite of the rule of the Ruthven Lords was by no means the cipher that they had expected him to be. The Synod of Lothian under the influence of the Edinburgh group likewise produced an expression of the Church on the point of foreign policy, against the "confederacie sought by the Papisticall factioun of France" who up till this time had not recognized James as lawful ruler. ⁽¹⁾_{20x} The whole Church or rather the ministry of the Church had a fixed foreign policy of alliance with England and although previously the connection had been by private correspondence the Church Courts now openly took upon themselves to petition the King in the manner of the English House of Commons. That their system was not to be bounded by peaceful methods is indicated by the threat, "certifieing his Grace if thir things be not done the zeale of the people will not be stayed from some inconvenient. From a general survey of the records of Presbyteries it seems to be clear that in point of fact the "people" were apathetic to affairs of High Politik. The people they referred to were the fighting force, the Lairds, who had always been turbulent, and possibly the Edinburgh mob which was easily

(1) Balderwood. III. p. 703 3rd April 1583

inflamed. Under these circumstances a Convention of Estates met in Edinburgh on 18th April 1583 but the personnel was little different from that of the Privy Council and only one burgess member attended. It accordingly referred all other business to a full convention which was to meet in October, but imposed a taxation upon all Three Estates paid in the proportion of £10000 from the Spiritual Estate, Lords Barons and freeholders £6666-13-4 Burghs £3333-6- and the Bishops and Abbots inspite of the Kirk claims were still the collectors. The ministry however were exempted and those paying third were exempted for that third, but the system showed that the Reforming Government had no scheme to alter the system. Finance in Scotland always played an enormous part in determining policy. (1)

The Assembly met on April 24th but there is no evidence to show that the Burghs sent delegates. The Church had been placated by the invitation or command to David Lindsay to attend the Royal ambassador to England to consider the King's marriage. The Assembly in its negotiations with the Civil Power seized the opportunity to dictate a foreign policy, and they ordained Lindsay on his return to report to the Moderator and his Assessors on any point that the whole Assembly ought to know.

(2)

(1) A.P.S.III.p.328

Rait.p.492

(2) B.U.K.p.613

The three commissioners sent to the King and Privy Council to invite the King to send commissioners to the Assembly carried with them a formal foreign policy, i.e. to desire James to charge his ambassador to treat with Elizabeth for an alliance between all Protestant Powers against Papists and the Council of Trent. They did not hesitate even to advise that the English Queen should be addressed on the subject of ritual in the English Church. Upon a good answer from the King they were emboldened to urge the removal of the French ambassadors and particular Papists of high rank whom they named. A similar delegation recommended the cause

(2)

of the imbecile Earl of Arran. The King's promises of betterment on this point certainly must have been temporary. The Edinburgh group was responsible for all these measures. Their position in the Capital and the free access which they had to the Court rendered them a kind of Secret Cabinet through which affairs of State were communicated to the whole church and by the pulpit to the country

so far as was expedient, in the eyes of the ministry

(1) B.U.K. p. 613

(2) The ambassador departed about this time after a sojourn at Seaton fearing attack.

(3) See Cal. Sc. Papers. VI. p. 406 Bowes to Walsingham informing him that the Assembly is to take up Arran's cause, and that the King will not be pleased since he hated the Hamiltons. So at one time had the Church but now they were opportunists. The Ruthven Lords were considering the recall of Lord John Hamilton. See also Calderwood VIII. p. 241.

cf. with B.U.K. p. 620.

The Royal Commissioners in turn brought proposals whereby
 they invited the Assembly to delegate its authority to
 a Commission to deal with the Council, with a warning to
 the Kirk against "novelties" apparently either in Kirk
 Government or in too great interference with the Civil
 domain. The Kirk definitely refused to delegate its power
 to "conclude" to any committee. They were probably afraid
 that if they did so their meeting might become like that
 of the Parliament which delegated its full authority to
 the Committee of the Articles which virtually "concluded"
 everything. The Kirk always realized this defect in the
 Parliamentary system. It would therefore seem that in this
 Assembly the Kirk did not appear as suppliant before the
 Privy Council except in the preliminary stages but for the
 rest of its sessions sat as a separate body with the Royal
 Commissioners in attendance who probably voted although
 how far they could commit the Government is not known.
 They did agree to appoint delegates at the suggestion of
 the Royal Commissioners for the execution of the Act of

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- (1) Halyburton and the Laird of Colluthie both of whom were
 probably members of the Assembly in any case.
- (2) The articles proposed to the Church by the King on which
 they refused to delegate do not seem to be extant. cf
 Petrie p.416 C.III.p.709. "The Kirk be the Moderator
 gave answer that for expedition of the first heid the
 Assemble sould appoint their nixt Convention sooner that
 ane absolute answer may be given" Vote in Parliament and
 Taxation?
- (3) e.g. Bruce 1592 said "The Conventions of Scotland resolve d
 in Commissiouns" (C.V.p.172 cf Melville p.556)

Parliament of 1581 for the Platt for Stipends. The King suggested that three ministers should meet with the Parliamentary Commission and the Assembly nominated 8 ministers or any three of them for the purpose of settling a "solid order and forme of provisione of Ministers stipends" It (1) seems clear that even in this respect the Assembly did not agree to delegate wholly; no final arrangement was to be made until the next Assembly gave its sanction.

It was only when the Assembly was on the point of dissolution that the list of articles for the Consideration of the Civil Authority was prepared. What they were none of the records inform us but the committee to confer treat and reason with the King and Council thereupon consisted of only three ministers who were to report the provisional answer of the Civil Power to the next Assembly. (2) There seemed to be a deliberate attempt to avoid hasty conclusions, and to keep the final power of consent invested in the full body of the Assembly. Nevertheless it is true that "no Scottish Government since the Reformation had been more deferential to the Church" (3)

(1) See supra A.P.S. III. p. 211 cap 2 Dun Pont Hay Buchanan Craig
Note the majority of Edinburgh Lindsay Duncanson Brand
ministers

(2) Andrew Hay George Hay Alex. Arbuthnot (Aberdeen Principal)
G. Hay was minister of the Privy Council but the others were
not of the Edinburgh brotherhood.

(3) Masson's Introduction to Privy Council Register III. p. liv.

Feudal jealousies over the spoils of office were dividing the Lords. The "ministers", by whom Calderwood invariably means the Edinburgh group, in collaboration with the English ambassador succeeded in inducing them to renew their band of mutual defence, but the revolution of 27th June occasioned by the King's ⁽¹⁾ escape overturned the schemes and conferences which it is to be presumed were proceeding. Whether the escape could have been attempted if the "wacriff" Edinburgh Presbytery had been in the vicinity is doubtful.

The result was a complete reversal in the civil policy with regard to the Church. The Church's ⁽²⁾ feudalism is evident in their appeal to James to pay no heed to the counsels of William Stewart "who is but a meane man". The King defied the ministers who suggested this and ⁽³⁾ claimed Royal right to choose his own advisers, for as he said if godliness was the qualification "few or none of the nobilitie were to be preferred". It was therefore a question of ⁽⁴⁾ policy and he exerted the right to choose his own. The supernatural wisdom with which the ministry credited themselves ⁽⁵⁾ although backed by English representations was therefore ⁽⁶⁾ discredited. One more reasonable minister admitted that after

(1) C.III.p.713

(2) cf the return of Adamson.

(3) He was a younger son of the Laird of Garton. And so of the same class as several of the ministers themselves. e.g. Andrew Hay brother of Tallon, David Lindsay of the Edzell family. C.III.p.719

(4) ibid.

(5) "There was never one yitt in this realme in chief authoritie that ever prospered after the ministers began to threaten them"

(6) Bowes indeed thought that if the ministers had remained passive nothing would have been done to include them among Gowrie's "associates". C.S.P.VI.p.589-590

all the question was a feudal quarrel,"Sir I would that there were not a surname in Scotland for they mak all the cummer". A number of ministers cited before some kind of Convention of Nobility in St.Andrews on 22nd August refused to commit the Kirk although they might have taken cover behind the Assembly's act of approval.Their point was that they were individuals with no commission from the Kirk to defend it against general charges.Bowes states that the presence of the barons at this convention and the support of the chief burghs prevented more stringent measures against the ministry. Walsingham himself used the argument of the Assembly's approval of the Ruthven Raid as if it were a constitutional body of sufficient merit to replace the Parliament which under the Raiders had not met.James however stated that the reason they approved it at all was on the misapprehension that he was a free agent.⁽³⁾ In any case the "matter was civill and politick and little concerning them".It seems clear that the King realized that the Assembly by its interest in domestic and foreign affairs had taken up a position which definitely challenged that of Parliament as the National Governing Body.⁽⁴⁾

(1)David Ferguson(Dunfermline) C.VIII.p.247

(2)C.III.p.721

(3) C.S.P.VI.p.591 Aug.25 1583. Kirk affairs were placed first in the Articles Walsingham had to offer.

(4) C.III.p.727

Parliament had been fixed for 24th October by the previous Government. The Assembly had arranged its meeting to coincide. It was arranged that both should "hold" and that on Arran's suggestion a conference with the Kirk should take place on the 20th. The Commission for consideration of stipend (1) which is referred to as being altered from the middle of October to the first and then changed again to the 16th may be this Conference although who gave the Kirk members their authority is not known. Probably the conference referred to is a meeting of the three accredited commissioners (Hays and Arbuthnot) and the 7 or 8 ministers nominated in the last Assembly for conference with the Platt. In any case the General Assembly anticipated both Conference and Parliament by convening on the 10th probably at the instance of the Edinburgh Presbytery who had practically a standing commission to alter dates upon necessary occasion. The Church therefore took the first step, but though it is specifically stated that the meeting was small on account of the scarcity there is no evidence to show whether the same rarity applied to the lairds and burgesses for those mentioned by name were (2) all Edinburgh Presbyters who in the negotiations took the leading part. Although the extremists were on the list of Assessors the persons they chose to present their petitions

(1) "And therewith the King promised that the Parliament should hold for that purpose at the day limited" C.S.P.VI.p.591

(2) Braid Pilrig and the two Edinburgh Commissioners.

were ministers who had least offended the authority.
 With characteristic determination however they passed an
 act which must mean that they were prepared to stand by
 the party to which they ^{had} attached themselves. It was resolved
 "that an act being made in the General Assembly no just
 cause of the changing thereof intervening thereafter it
 shall not be leisure to any particular brother in another
 General Assembly to call the same in question again"
 The articles and grievances which they produced were not ⁽¹⁾
 conciliatory. As "watchmen of God's people" they complained
 of the return of the wicked to Court especially that "man
 of sinne" Arran, touching upon the pernicious French policy
 dissolute Court life, the disregard of Kirk liberty, the
 conduct of the Thirds and the Temporal Lordships. The position
 under Gowrie had not much improved, but it was part of their
 party policy to insist upon the economic aspect as attributable
 to the "new nobility". "There is a sore murmur among your
 Grace's lieges and a lamentable complaint that the laws of
 the country have no place; that no man can be sure neither
 of his land life or goods which threateneth a miserable
 confusion and the heavy hand of God to ensue thereupon."
 This certainly was an appeal for national security and justice ⁽²⁾
 but it was the accepted cry of any "opposition". They likewise
 (3)

(1) B.U.K. p.627

(2) C.III. p.736

(3) Was it an appeal on behalf of their own party and particularly their baronial element which might well be forfeited for signing the Ruthven Band for which the ministers had organized propaganda like that of the later Covenants

produced a proposal for a kind of coalition of both parties to take a "moderate course", advice which the Kirk in power would not itself have followed. The "unquiett spirits" which this coalition was to bridle would not be restrained while the Presbytery of Edinburgh exercised its extraordinary power to give sudden advertisement to ministers barons and the Edinburgh mob whenever King or Parliament enacted anything to the detriment of the authority of the clergy. The inconsistency arose from the idea that the "inspired" were a law unto themselves irrespective of Civil Statute. The old Scottish turbulence had appeared in the new class of ministers who in many cases had inherited it from their ancestors the unruly barons with whose Estate they maintained a strong alliance. The King's answers in the first place being vague the Assembly insisted more strongly and the Royal answer was correspondingly definite. The question had become a constitutional one which Parliament itself did not lay claim to. "His Majestie thinks the Assemblie will not think it

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- (1) Besseking your Majestie for the tender mercie of God to call to your Hieness some of the most wise discreit and indifferent and by their counsell to tak a moderat course that unquiett spirits may be bridled good men cherished and interteaned and the hearts of all your Majestie's subjects united to the maintenance of Gd's glorie preservation of your royall estat and comfort of all them that bewaile this miserable desolation.
- (2) See Introduction

verie pertinent for them to have vote in the choosing of his Majesties servants or to be overcurious of the occasion of placing or removeing of them; neither yet of the intelligence betuixt his Hienes and any forraine countreyes for interyaining of civill peace and amitie from quhilks no princes or commonwealths in the world abstainis although being diverse in religion."

Thus the King maintained his right to appoint his own ministers and direct his own foreign policy. The claim of the Assembly implied a limited monarchy, limited not by reference to Parliament but to the Supreme Ecclesiastical Court. These pretensions he held were beyond the sphere of the Kirk altogether.

As for those which admittedly were the Kirk's concern he considered that the Kirk itself was to blame for lack of result ^{by the} Vagueness in their petitions ^{and} negligence in carrying out formalities in connection with the Assignations. He held however that a pension from the thirds or a tack set to a public servant who was valuable both to Kirk and State was no injury to the ministry in their apportionment of thirds. While willing to "hold hand" to the punishment of vice, of vagabonds etc and to grant extraordinary commissions to nominees of the ministers where the ordinary judges were incompetent, he demanded specific instances of

(2)
the non execution of Civil Law. (1)

- (1) The Kirk itself admitted that its ministers abetted the infringement of the act against pilgrimages (B.U.K. p 638)
(2) cf Elgin. December 1595.

The King was at Stirling during these negotiations, the Assembly in Edinburgh, hence the formality of the interaction

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The King attempted to discredit the discipline of the Kirk by a deliberate support of the Brownists in Edinburgh.

Whether the ministry had direct dealings in the conspiracy of Stirling in March is doubtful, certainly the ~~proclamation~~ issued by the rebels placed the King's neglect of his ancient nobility in the same list of grievances with the attack upon Kirk liberty. The King obviously regarded the Assembly as equivalent to the Party Convention of the Opposition if the lay element was permitted to attend. In the state of feud this lay element could not in any case have been elective. When Presbytery records are extant it is clear that the laird element was nominated by the ministry and was thus representative of one party only. To prevent this accession of opposition laymen the Court issued the proclamation "to command all and sundrie noble: men baronis and landit men freholders and gentilmen that thai forbear and lief of to convocat thame selffis in ony assemblies be the motioun of quhatsumevir personis spirituall or temporal to deliberat in onie caussis civil or ecclesiastical quhill his majestie have tryit the present practizes intendit for the trouble of his estait" (2)

When the Assembly met on 24th April it dissolved rather than recant its approbation of the Raid. Its numbers
(1) C. IV. p. 27

(2) P. C. R. III. p. 648 4th April 1584.

were small and it is improbable that there were any there other than ministers. The "boasting fierce commissioner" sent by the King to the meeting in St. Andrews demanded recantation of the Approbation and the Excommunication of his rebels the Stirling Lords. The convention melted away and the handful left refused to commit the Kirk without the others. Besides the act of the late Assembly of October prohibited the calling in question of decisions passed by the whole body. It was significant that the rebels sent a letter to the Assembly which however was not read publicly but only submitted to "some few of the gravest and wisest", in fact to an unofficial Privy Council who might thus direct policy at discretion.

Although the Church officially might not be implicated those ministers whom she habitually used as her commissioners certainly had reason to fear the confessions of Gowrie, and the result was that the church as an institution had to suffer for the indiscreet intrigues of its individual members. In spite of their justification of it their flight was a practical confession of complicity. An Opposition in Scotland had no means of expression by Parliamentary methods. The realization of this and the necessity of the financial system were the chief inducements to the Kirk to consider its inclusion as an Estate in Parliament, in the last years of the century.

(1) See James Melville. p. 166 C. IV. p. 37; cf B. U. K. p. 627

(2) ibid.

The "current" Parliament which passed the Black Acts of May 1584 contained 22 Burghs and the representatives present were in no wise different from those who were accustomed to attend the Assembly. Their impartial attitude may be accounted for on the ground of trade which if the Assembly's policy were followed would become very restricted. Otherwise it would imply apathy and indifference on questions of religious motive and opportunism in civil relations. The numbers present 8 Bishops 13 Abbots 11 Earls and 14 Lords was an indication that the Presbyterianism of the Kirk was only accepted by a part of the Scottish people. These acts as shown by Professor Rait⁽¹⁾ prove that the King and Government realized the menace of the Assembly to the prestige of Parliament, and the secret methods used in the conferences of the Articles prevented a protest on behalf of the Kirk.⁽²⁾ The meeting of ministers which sent Lindsay to make the protest for attempting which he was imprisoned was summoned at the instance of the remaining ministers of the Edinburgh Presbytery, but was no accredited Commission of the Church for the last Assembly had provided for no intercommunication with the Parliament, although it must have known some such situation would arise.⁽³⁾

(1) Parltts. of Scotland. p. 55, 371. see Lee. II. p. 84.

(2) Calderwood IV. p. 61 et seq.

(3) Moysie. p. 50 calls these acts "guid and notable" ones
Lindsay's protest was to be that nothing be done until
the church through the General Assembly defend its liberty

"Never since the Reformation" says Masson, had such a blow at the fundamentals of Presbytery been struck as was inflicted by those acts of May ...under the premiership of the tremendous brother-in-law of John Knox" The Prestige of Parliament in its original form of the Three Estates was insisted upon and innovations i.e. those suggested by the Kirk were forbidden. Although preaching and administration of sacraments were ratified in the liberties of the Kirk, all assemblies conventions and jurisdictions not approved by Parliament were condemned and the King declared supreme in all causes and over all persons spiritual and temporal, and it was accounted treason to deny his authority.(2)

The chief source of Kirk authority and power to enforce its
(1) P.C.R.III.p.lxiv.

- (2) This in main outline was the gist of the action with regard to the Assembly. See.A.P.S.III.p.292 et seq.
Cap.1,2,3=Cap.4. The troubles of the past 24 years had been responsible for convocations of the lieges which have taken to themselves civil pecunial as well as ecclesiastical penalties although this had never received formal sanction by Parliament.
Deprivation from benefice was entrusted to Bishops (the Kirk had suggested the Commissioner of a Province) and ecclesiastical commissions were set up under the Bishops and composed of the King's nominees.(cap.20)
Cap.6 Ministers were prohibited from exercising any other office distracting them from their flocks particularly from judging in Civil and Criminal causes, as members of the College of Justice advocates clerks etc.although obviously Bishops might do all those things.The act was particularly aimed at Pont who was a member of the College (For taking instrument against these acts he was removed) and a Commission was appointed cap.27 to see to reform of the College of Justice
Cap.8 aimed at the ministers freedom of utterance in pulpit

decrees was attacked in the 31st Act, wherein the excomm:
 :unication of Montgomery was repealed by Parliamentary
 authority. It was declared that since excommunication is
 maist feirfull and terrible and be his hienes lawis men
 thairby debarrit from all civill societie and benefite of
 his hienes lawis; It apperteinis cheifly to his princelie
 (1)
 cair to sie that the same be not abusit to serve the
 Indiscrete appetite of ony men under quhat collour or
 pretext soevir". A definite claim was therefore put forward
 that the civil government must approve before the civil
 penalties were enacted

The last great interest of the Church i.e.
 finance was provided for in the 22nd Act showing that
 the King was well di^sposed to the Kirkmen provided they
 did not claim to control him in civil affairs affecting
 government. The act of October 1581 appointing a Platt had
 never been put to execution partly through the troubles
 and partly because the ministers had not supplied the
 necessary statistics. The powers of that Commission for
 Stipends were now transferred to the Lords of Chekker
 who were ordained to meet to consider some kind of
 proportionate valuation as nearly as possible to the fiars
 prices of the different shires.

(2)

(1) cf. the act of 1573 which linked up the system with
 the regulations of the pre-Reformation "cursing".

(2) A.P.S.III.p.303 cap 22

The Kirk revenues were further affected by the regulations appointed for the payment of the Royal Guard. This was decreed to consist of 40 men each of whom was to receive £200 yearly. The expense was met by annexing the annate or first years fruit from all benefices (lawit patronages excepted) to be collected by the Lords of Chekker. In addition to this each benefice of £1000 was to pay £200 and so proportionately, i.e. each benefice in addition to the third (the surplus of which the King seldom received much) was to pay 1/5 for the support of the King's Guard. Even this according to the act would not make up with the annate the £8000 requisite and all monks and nun's portions fallen vacant were to go to swell the total. At other times during the troubles with the Papist in the last decade of the century⁽¹⁾ the Kirk took an active interest in the payment of the King's Guard. (c. 1593)

These Black Acts were not allowed to pass unchallenged. Pont and Balcanquhal took formal instrument of their protest in the name of the Kirk of Scotland, probably by virtue of their general commission as members of the Edinburgh Presbytery. It was only by special permission of the King that the inferior church court were permitted to meet. It was part of the Royal policy that that permission should be granted through the mediation of the "renegade"

Patrick Archbishop of St. Andrews.

- (1) A.P.S. III. p. 298-299 cap. 13. The last provision was not of much value. On 11 Jan. 1587 the Privy Council made revocation of all grants of monks portions since 1584 when they ought to have gone to the Guard. Monk's portions were convenient stipends for civil servants. P.C.R. IV. p. 134
- (2) e.g. Edinburgh Presbytery and K.S.C. IV. pp 72-73. St. A.K.S. p. 530

The policy of the exiled ministers changed the controversy from verbal diatribes to written and published polemics. Adamson in his replies stated definitely that they were "the principall firebrands of the late conspiracie and opin rebellious against his Majesties persoun and estate, and that men of good judgement would inferre that they had been privie to it not by revelatioun of the spirit but by conference of flesh and blood". It was indeed true that "they conveyed the gentlemen of the countrie to practise with them in pretence of Presbyterieis". The very constitution of the Presbytery which did not insist upon the regular attendance of the lay lairds except upon upon necessary occasion lent itself to this view, and the Kirk had several other methods for enlisting the support of the gentlemen. Adamson himself in 1586 complained that the meeting of a majority of the Fife Synod which condemned him was composed of laymen who were virtually ignorant of the points at issue. (1) Those elders and deacons of Edinburgh Session who were not of the joint personnel of the Council came under the King's wrath. Others who were members of their inner ring took care that they were not involved in treason by communicating with the exiled pastors. (2)

the exiled pastors. (3)

(1) C. IV. p. 85

(2) ibid. p. 513

(3) Sp. II. p. 318 History James Sext. p. 205.

*Mossie (p 51) said no man knew why they fled
"James Sext" has no hesitation in saying that "certain
ministers knew themselves guilty" (p 204)*

Intelligence undoubtedly existed between the individual ministers who remained and the exiled in England not only on ecclesiastical points. Howison definitely hinted at a deliverance to come. James Melville indeed had some scruple against⁽¹⁾ "having much ado with the lords being the King's rebels," but was persuaded. Their behaviour in England and the rigorous discipline they submitted to indicated the value the lords ascribed to the ministers propaganda. But the chief fear was that "custom would blunt the sense of deprivation" particularly as those who remained had resolved to accept a moderate policy. But the Acts of August passed by 14 prelates 19 Lords and 15 commissioners of Burghs⁽³⁾ insisted upon "ane uniforme ordour to be observit be the beneficit men" and ministers readers and masters of colleges were to be compelled to sign a declaration submitting to the Black Acts, the Bishops taking their subscription. The example set by the remaining Edinburgh ministry was a powerful incentive, although they signed with the proviso "as far as consistent with the word of God". The threat of retention of stipend in the King's hand was a more forceful

argument than the invective of the absent ministers. ⁽⁴⁾

(1) C.IV.p.147. His view was that in a case of treason preached from pulpit, the King and Assembly were the judges, and in that case only had the Crown power to summon the Assembly. The Assembly for him is simply the ministry.

(2) J.M.p.181-186 (3) A.P.S.III.p.332

(4) Until they did so they could have no "remed of law" P.C.R.III.p.708 11 Dec. 1584. The ministers who expected assignations about November submitted as well as the beneficed.

Adamson's statement of the situation propounded the view that the King did not claim to be head of the Church but only the chief instrument or member, and the discharge of all assemblies and jurisdictions ~~was~~ necessary against the Presbytry "wherin a number of ministers of a certain precinct, accompting themselves all to be equall ..and gathering unto them certane gentlemen and others of his Majestie's subjects, usurped all the whole ecclesiasticall jurisdiction and altered the lawes at their owne appetite without the knowledge and approbation of the King and Estate, a forme of doing without any Example of anie nation subject to a Christian Prince" The General Assembly he said was a number (1) of ministers from some presbyteries with some gentlemen of the countrie for that time malcontents of the estate, and the position was the more dangerous in the absence of a definite body of ecclesiastical law which gave the general convention an excuse for altering the constitution at will. In Adamson's view the vote went according to the "pluralitie of voces which for the most part succeeded unto the most unlearned of the multitude". When we consider the great numbers of lairds who were nominated to attend the Assembly and the enormous majority sent by the central group of Presbyteries there is a good deal to be said for his argument. The respect for Civil Statute was small enough (1) C. IV. P. 259

without the counter enactments of an Assembly the members of which for the ministry at least claimed exemption from the usual methods of trial and forfeiture for their utterances Freedom of speech in Parliament was but a theory, but in the Assembly free criticism of the Government was common Nevertheless the Assembly did not like free criticism of the Church in the Estates and used its own methods for controlling it as far as possible If the principle of the Kirk freedom (2) could have been introduced into the Parliamentary system a good deal of power would have accrued to the central authority The tendency to separatism common in Scotland was a characteristic of the Kirk. It remained outside and criticized an already weak Executive. "His Hienesse must ather discharge himsalf of the crowne or the ministrie of that form of Assemblie".

The Church government suggested by Adamson shows how the idea persisted until realized in part 20 years later. Kirk Session were to be nominated by the Bishop, all other ecclesiastical conventions must be at the instance or with direct consent of the King and only for questions of doctrines The "exercise" was to continue but without any laymen and its president was to be a salaried official appointed by the Bishop. (cf the Constant Moderator) (3)

(1) Rait. Parlt. of Scotland. p. 520

(2) cf. the case of Edward Bruce whose child the Pres, of Edinburgh refused to baptize until he repented for his speeches against the Kirk in Parliament and the Articles

(3) C. IV. p. 262. of the system which obtained 100 years later under Episcopacy. Appendix to Spottiswood's History 1677. by "Thomas Middleton". p. 17

The Bishop was limited by a council of 13 godly pastors chosen by himself, and no Assembly of the General Kirk was declared to be legal unless the King or his Deputy was present. In practice the Kirk had always desired this; under Mary they had invited the royal representatives to be present to hear their discussions. What they did want was that the representative should vote both as an individual and as the Supreme Civil Power.

(1)

Adamson's triumph came in February when his ecclesiastical Synod at Edinburgh was a model of decorum, and the seal was set upon the subjugation of the ministry by the Articles prepared by the Secretary John Maitland which all ministers and officebearers had to sign under penalty of loss of stipend. "Subscription went on apace the examples of Mr. Craig and John Brand had done much ill"

(2)

(1) cf. Matheson. I. p. 232 While the State could apply for redress in the matter of sermon only to Church Courts, these Courts as against the State were entitled to act on their own initiative. The obvious example of course is the famous pursuit of Mc. Gill for the Proclamation of 12th July. 1582 see. supra. B.U.K. p. 605

(2) They promised obedience to the King in all laws not directly repugnant to the Word of God, to refrain from claim to exemption from jurisdiction, and from public rebuke of the King and Laws, avoiding faction, and alienation of the people from the government, and claims to "inspiration" C. IV. p. 351. The laird of Dun who had never been opposed to Episcopacy was a "pest to the ministers in the North"

NOTE:

400 years later "Thomas Middleton" states that in the minority of the King the Assembly consisted of 2 ministers and one lay elder from each Presbytery, 1 Commissioner from every Royal Burgh, one from every University and one from the King. A shadow of this still remained in 1677. The National Synod was composed of Bishops and Deans and 2 members from every Presbytery one of whom was in the Bishop's nomination, one Commissioner from each University. But nothing could be proposed but by King or Commissioner and summons lay with the Crown. Their concurrence was not necessary. Sp. App. p. 18

The cause of the zealots fell into the background. The very cause of their alliance with the rebels was removed by the purpose of James to combine with England for joint action against the Franco Spanish combination ^{under} the Holy League which had been one of the points of policy urged by the last Assembly in 1583. The agreement made with the Convention of July in St. Andrews must have been a matter of chagrin to the ministry that a definite move should have been made under the regime of the hated Arran. The Convention had a greater concourse of Burghs than the Ruthven faction had ever had. They were ^{burghers} ~~people~~ who had been delegates to Assembly in previous times.

(1)

On the whole therefore it is more likely that the mysterious murder of the Lord Russell if it was other than accidental was at the instigation of the banished Lords rather than of Arran, for alliance with England would have prejudiced their triumphant return.

(2)

The tortuous policy of the Master of Gray and Wotton's bias resulted in the "letting slip the Lords" and the fall of Stirling 4 November 1585 was the climax of a scheme of intrigue and propaganda in which the Kirk and ministry's cause was given a prominent part. (3)

(1) A.P.S.III.p.322 10 Lords 3 Bishops & Commendators
4 Officers of State 15 Burgh Representatives e.g.
Cockburn P. of Haddington Learmonth of Dairsie Heriot for
Edinburgh. Commissioners were appointed for arranging
an offensive and defensive league.

(2) See W.C. Dickenson. S.H.R. XX.p.181 for a detailed account of the facts.

(3) James' greatest grievance at the trend of circumstances resultant on the Raid was the loss of his promised pension from England. Arran was really "national" in policy C.IV.p.379 P.C.R.IV.p.30 Lords in Council Nov.4th.

So confident were the ministers both those who had returned and the leaders of those who remained, that the Kirk meeting was the true national ~~expression~~ of "alteration" that without waiting for the sanction of Parliament or for the formal condemnation of ~~the acts forbidding their~~ ~~monventions~~, a General Assembly was summoned on the initiative of the moderator of the last official Assembly in 1583, Robert Pont. He gave warning in November, as soon as the victory was assured, to the Presbyteries to send delegates to Dunfermline on 23rd November. By order of the Provost ⁽¹⁾ however the gates were shut against them and ⁽²⁾ meeting in the fields they transferred their meeting to Linlithgow where a Parliament did meet on 1st December.

The ministers in attendance on this Parliament do not seem to have considered themselves a General Assembly and it is doubtful whether there was any lay element present at their meetings. They lodged together in a "deceyit" house and although the Burghs were also meeting in the Town ⁽³⁾ and the barons must also have been there in some strength ⁽⁴⁾ to prepare their petition for representation, there seems to be no trace of formal meetings with these. The burgess members were equally well qualified for membership in the Assembly. The position at this Parliament seems to be that

which James himself would have preferred, the clergy meeting

(1) The only Town free from Plague.

(2) Laird of Pitfirran a relative by marriage of Colonel Stewart.

(3) J. Melville. p. 229 They stayed there 10-15 days until the end of Parliament.

(4) C.R.B.I.p. Dec. 1-10. In the Edinburgh Records the Dunfermline meeting is called "the Convention of ministry"

as a particular estate by themselves. In the document which at the King's request they drew up containing their animadversions on the position created by the Acts, they described themselves as the "commissioners of the Kirk" but unless they received their commission from the doubtful openair meeting at Dunfermline their claim would seem to be purely selfimposed. The King was powerless against the Lords but he expended his animus against the ministry who had consorted ~~with them~~ in exile. In these animadversions the complaint was that by reason of these Black Acts the (1) Kirk was left only liberty of preaching and the sacraments (2) while excommunication ordination discipline and jurisdiction were omitted. Particularly did they complain upon the Judges in Ecclesiastical Causes who at the Bishops and the King's nomination had taken over the whole question. In particular they demanded once more that none should vote in Parliament without authority from the Assembly to commit the Kirk. But they had no scheme of representation to substitute, and Bishops were present in the Parliament and were also appointed upon the Council which the Parliament ratified. James refused to grant licence to hold Assemblies without his permission (3) or to rescind the acts until the ministry reformed their methods of dealing with him. All that could be obtained was permission to hold their ordinary assemblies until the next

Parliament. His attitude was possible owing to the politic

(1) Especially Melville Galloway and Balcanquhall

(2) C. IV. p. 464 see Lee. p. 87 J. M. p. 228

~~PER~~ A. I. S. III p 348 § 10

methods of the returned Lords who refused as they had done at the Ruthven Raid to irritate the King too far until they themselves were fully reinstated. Although the ministers rebuked the King in the old manner it was clear that his position was strong enough to prohibit coercion. The ministers themselves were divided and Craig who had the King's ear was a moderate in spite of the denunciations of the zealous. His sermon before the Parliament attacked the "sincerer sort" and he had a handle against their dubiety of motive in the fact that several of the ministers allies were lords suspect in religion

(1)

The very first act of the Parliament seemed to be directed to control the unbridled sermons and invectives of the ministry. The only tangible benefit that the Kirk received was the purely formal restitution of those ministers who had left the country within the previous three years. Their interest in the imbecile Arran however was repaid by the appointment of his brother Lord John Hamilton as his curator but the act was a point of policy and not from any humanitarian motive.

(3)

The petition by the barons for representation important in the history of the constitution may possibly have been an attempt on the part of the government influenced by Maitland to buttress the authority of Parliament at the

(1) S.g. Maxwell and Hamilton C.IV.p.459

(2) A.P.S.III.p.374 Ane act against the authours of slanderous spechis. No subjects to declaim or privately speak or write any purpose of reproach or slander against King Estate or Government.

(3) ibid.caps.24&25. The Kirk had at obo time censured all con: :sorting with the Hamiltons as murderers of the Good Regent.

expense of the lay element in the Assembly. If the smaller barons were included before the Assembly had its privileges ratified a large part of the power of that body in opposition might transfer itself to the Governmental and administrative side. Andrew Melville's attempts at a demonstration presumably (1) on the part of the smaller barons were unsuccessful probably because the lairds were waiting to see what the result of the article on representation.

The conference of February 1586 which resulted in a compromise and the establishment of the Bishop as a revival of the early Superintendent, was agreed to by these ministers who called themselves the "commissioners of the Kirk" at this Parliament, but probably they had no definite power to commit the Assembly as an institution. Jurisdiction was defined in a fairly clear way not as invested in the Bishop but in the Presbytery. The chief result was the summons of a General Assembly by Royal Proclamation and missives directed to Bishops to have commissioners elected. The King himself was to be present. James had thus gained his point and the Kirk had departed from its independent attitude in the matter of summons. There is no indication of whether the presence of lay members was contemplated, or if an attempt was made to have only persons present who were not in ill favour with the King. In any case it was unsuccessful for the unit of election seems to have been the Synods who had revived an aggressive policy in a most impolitic (1) A.P.S.III.p.422 cap.74

manner particularly in the case of the Synod of Fife and its excommunication of Adamson. The circumstances of his appeal to the King Council and Estates are too well known to require elaboration. But from the constitutional point of view it is significant that it was the presence of the large numbers of barons and gentlemen which gave the meeting its power and he himself stated that their vote condemned him. How did the zealots reconcile this with their doctrine that in judgment of doctrine only actual ministers and doctors should judge?

(1)

Under these circumstances it is improbable that the conference arranged by the meeting of February a few days before the General Assembly in May with the King on the question of stipend for ministers and moderators and of the vote in Parliament had any tangible results if indeed it met at all. In any case such a confer:

(2)

ence was more a colloquy of individuals than of an accredited representation or Commission of the Church for no formal Assembly had as yet met. The question of stipend which was one of the most important agenda of this preparatory meeting was discussed in a conference in the Privy Council which illustrates the informality of such arrangements. On the 4th March the Privy Council appointed

(1) C. IV. p. 504 et seq. Sp. II. p. 337; Moysie. p. 57 definitely affirms that the Master of Lindsay and the Laird of Abbot: shall used violence to the Archbishop

(2) C. IV. p. 494

a commission of "sa mony ministers as ar now presentlie
in the toun and hes borne charge of commissioneris in
the publict effairis of the Kirk and that knawis the
cuntreyis,..to remane and attend ~~with~~ the Lords Auditoris
of Chekker quhill the modifications and assignations be
maid perfyte", and Bishops and Commissioners of Provinces
were sent for by Royal missive. A little later by one of those
(1)
comprehensive revocations of grants out of the thirds it
was insisted upon that some regular system both for ministers
and surplus was to be set up.

(2)
A similar conference therefore may possibly
have met 8 or 10 days before the Assembly but the evidence
seems to be against it. As already mentioned although there
seems to be an indication that the attempt was made to exclude
the lairds and the act of Council authorizing the summons
it is called the General Assembly of the "Ministry" the
proclamation mentions Bishops Commissioners of Kirks Ministers
and others having interest" Probably the lairds were there
(3)
though they are not mentioned as being on any committees (4)
The burghs may have come to the Assembly after ~~their~~ own
convention at Cupar.

(5)

Negotiations with the Civil authority were

(1) P.C.R.IV.p.52 4th March 1586

(2) ibid.p.58.24th March.

(3) ibid.p.60 5th April.

(4) Row implies there were elders on the Privy Conference

(5) R.C.B.I.p.212

intimate and personal. Unable to attend in the first Session the King's Commissioners requested delay of choice of Moderator to a meeting in the afternoon in the Chapel Royal. (1) By consenting the Assembly showed its necessity for support. The King himself seems to have presided until the Moderator (2) was chosen, in the election of whom he voted first. Until this was done he explained the reasons of his summoning the Assembly i.e. to defend himself against the charge of defection from religion and to have the opinion of the Kirk on the results of the Conference in February. While the Assessors were all ministers the King realized the importance of having representatives of his own on this body which in this Assembly played an enormous part considering all questions of importance (3) before they were submitted to the Assembly itself and in fact being little different from the Committee of the Articles except that they reported daily to the Assembly at the usual hours. The King however kept a tight rein upon their activities and the records had to be handed over every night to the custody of the Lord Privy Seal who was one of the Privy Conference. Little independent action on the part of the ministry was advisable. They proceeded to the reconstruction (4) of Presbyteries, and commissioners (ministers) prepared lists (1) Lord Privy Seal and Mr. Peter Young the King's schoolmaster (2) He sat at the end of the table and the ministers on "furnes" round about him (3) The Secretary, Justice Clerk, Privy Seal Mr. John Graham Culross, and Peter Young. He suggested that final decision on more important questions should be left until he himself next attended in person (4) B.U.K. p. 649

for the consideration of the Clerk Register. The Church was going warily. The conference of February called by the King had shown the existence of a ~~strong~~ moderate party who refused to be driven by the invective of those whom Melville calls the "best". They even yielded so far as to ask what time the King ⁽¹⁾ thought meet for their next Assembly. The situation demanded the acceptance of ~~such~~ concessions as the King had made in the February conference, and the result was the establishment of that limited form of Episcopacy subject to Presbytery and Synod, which had been agreed upon, those worthy of promotion being submitted in a list drawn up by a committee of Assembly and presented to the Secretary.

(2)

On one point however the King was insistent. He would not have the sentence of summary excommunication included among church censures. It was a weapon which, powerful enough in its effect after due admonitions, was unjust and destructive of the ends of fair trial when summarily imposed. It was now agreed that this was an abuse and ~~no~~ Court lower than the Presbytery was given this ultimate power of censure (3)

(1) Spottiswood says that the zealous would have censured the Moderator Lindsay whom the King had voted for, and who had been a "subscriber" but the zealous were in a somewhat discredited minority, and the majority was not to be coerced by claims of special "inspiration" II. p. 342

(2) B.U.K. p. 656 C. IV. p. 560

(3) *ibid.* p. 665

* The King however would not agree to censure of the Bishop Commissioners by any Court lower than the Assembly. See the list of 13 Bishop-Commissioners A.U.K. p. 664.

And the test case of St. Andrews was left in a peculiar state compromise neither Bishop nor Synod gaining a decision

Besides personal dealings with the King in (1) Assembly, with his Commissioners in the Privy Conference and by various temporary delegations to ask his advice on points as they arose, other more permanent commissions were appointed, the chief of these being that which was entrusted with the presentation of the formal written demands to King and Council. These articles dealt with the usual heads Suppression of Papistry, Provision and Establishment, and Jurisdiction, but a claim was put in for the privilege of the Kirk in Session which had apparently passed during the quarrel.

(2)

A small commission had been appointed by the Assembly in collaboration with the Privy Council to consider the deprivation of beneficed persons. These 5 ministers with the addition of other two had their commission extended to include such articles as could not be immediately settled by the Council although they were forbidden to conclude

(1) see Calderwood IV p. 583

(2) (a) Suppression of Papists in the North. cf. P.C.R. p. 107 proclamation 24 Sept. 1586

(ii) Provision in the North, teinds not to go to Southern ministers; rights of pasturage etc; annulment of appointment to benefices of cure by any save the Kirk That benefices of cure under prelaties may be free from the annate and 5th penny. i.e. for the Guard, and the grant of these benefices to be without any condition Complaints on the taxation of vicarages which no longer have the small teinds. The Prelates refund themselves from the poor vassals. Requests for finding out true rents etc.

(iii) Appointment of judges for execution of Kirk Acts of Parlt.

In cases of appeal on deprivation judgment to lie with Assembly not with Session.

without consent of the Assembly. Of these 7 ministers 5 at least were of the Edinburgh Presbytery. There is evidence that this body was consulted quite normally by all such commissions of the Church and by its position it had obtained a preeminence in the Assembly and in Kirk negotiations with the Civil Power which virtually rendered it a permanent Commission of the Church. For many years it had had the duty of summoning extraordinary meetings of the Kirk. Its power had of course lapsed during the Black Act period, but it now revived and from its extant records it seems clear that as Edinburgh as Capital led the Burghs, so the Capital Presbytery led the Church, summoning councils of ministers conventions of particular Presbyteries by particular letters General Conventions containing large lay elements and official Assemblies very much in the manner of the Central Civil governing authority. The result was to centralize power not in the General Kirk but in the Lothian Fife and adjacent Presbyteries, a tendency which was not overcome until the disaster of December 1596.

(1) The petition was presented in the name of the Ministry They were to treat conferre and reason upon such heids and articles as salbe on his Majesties behalf or be his Grace's Commissioners proponit to them and quhat heirin beþ proceedit to report to the next General Assemblie of the Kirk.

Interaction and Points of Contact between the Assembly and the Civil Power

Commissions 1586-1596

II. The Presbytery of Edinburgh as the Watchtower of the Scottish Church.

To all intents and purpose the Presbytery of Edinburgh during the decade 1586-1596 was the permanent standing committee of the Church. In Scotland the tendency was to regard the affairs of the Capital as of national importance. Matters often purely particular and local were given a national significance. A brawl on the Edinburgh High Street sometimes changed considerably the national policy, and the presence of the Court and Law Courts compelled the New Church to regard the burgh as of prior importance in the Kirk organization. It was a place whither Papists and fugitives resorted, and the Presbytery accordingly received numerous letters of warning from all parts of the country to keep a watchful eye upon suspects⁽¹⁾ and from the time of Knox first individual Edinburgh ministers, then groups of them and finally the Presbytery had been given extra ordinary powers to summon the General Kirk upon necessary occasion chiefly in relation to the meetings of Parliament.

The extant records begin in August 1586, and although Calderwood drew largely upon them for information there is a great deal of matter of national importance in relation to the constitution which he omits. Instead of local feuds over teind struggles with lairds and burghs which we find in other Presbytery records those of Edinburgh reveal dealings with the King with the great Lords, with Session, and with national affairs, and as the members had ready access to the King it is clear that the opinion of the Kirk as represented by the central Presbytery was known to the Government on almost every point of policy or rumour of policy. If the Presbytery had no accurate knowledge of the situation it had no hesitation in making a direct demand on this score. The records provide thus some idea of the national outlook of the Kirk. The Presbytery was practically a central Committee for public affairs. Their opinion was sought in all kinds of ways. Thus the Laird of Balfour pursuing the excommunicate Laird of Fentrie before the Session asked for a testimonial from the Presbytery that his adversary was under censure and so deprived of his civil right to plead before the Lords

(1) cf. B.U.K. p. 486

David Lindsay the Bishop Commissioner of Lothian punctiliously consulted the Presbytery on the question of the Commission granted him (in accordance with one of the articles of the Kirk) to choose out suitable persons to judge of violation of Sabbath and similar offences Papistry Blasphemy Pilgrimage delapidation etc. All information on this score was to be reported to the King that he might summon malefactors before the Justice General, but some ~~as~~ might be tried before local Justices, and these Judges were nominated by the Commissioner by the advice of the Presbytery. The group of persons chosen consisted of those landowners who normally represented the lay element in the Presbytery (1) Thus the Presbytery had a voice in the civil execution of the laws, but it also had countless commissions entrusted to it by the Assembly to administer ecclesiastical justice. The Presbytery's attitude towards Episcopacy was modified by the fact that it contained moderates and zealots in almost equal proportions and they apparently agreed to bury all disputes, in order to unite against the menace of Papistry which was manifesting itself in sympathy shown for Queen Mary, and was particularly dangerous in the very seat of Justice the Session. (2)

Of the Kirk dealings with the Convention of Estates which on September 23 granted a taxation of £15000 for alleged repression of thieves, really for defence of the Queen, (3) nor of that of December gave a voluntary subsidy for the expenses of embassies to Spain France and Denmark in aid of the Queen's defence there is no evidence, but the Kirk attitude was strongly against any measures which might mean breach with England. It is indeed curious that the Presbytery made no comment upon the band entered into by the Barons freeholders and feuars of Lothian with the King towards the payment of a voluntary stent toward the same end, for these concerned were the Church allies upon whom they relied for execution of their decrees and for support against the central authority. Perhaps the barons as they later did in the case of Glasgow refused to allow interference in a scheme which was to lead to their inclusion in Parliament and as yet the Church had not realized the danger of that inclusion to its own prestige. (P.C.R.IV.p.136 13 Jan. 1587)

- (1) Justice Clerk, Braid, Merchiston, Pilrig, Carberry, Johnstone burgess of Edinburgh.
- (2) cf. the Synod of Mers had "passed over" the fatal "subscription" C.IV.p.603-4 The Lords of Session were complained upon by the Presbytery (Rec.22nd November) Lindsay and Pont with the King's permission went to the Secretary to inform him and then proceeded to warn the Judges to admit none against admitting any to judge defend or pursue without the testimony of the Presbytery
- (3) A.P.S.III.p.424. £7500 from Spiritual Estate. The tenants of crown lands were to supply such as paid third. P.C.R.IV.p.128. Each lord offered £200 Earl £390 Prelate £40 and the Burghs were to advise. The last had been injured by Elizabeth's restrictions on trade (R.C.B.I.p.218 Aug. 1586. The Edinburgh merchants were also irritated by the Presbytery's interference in their trade customs as smelling of superstition (Recs.20th Sept. 1586)

The Church policy was certainly an unpopular one in this respect and it was mainly the attitude of the Edinburgh Presbytery which was responsible for the refusal to pray for Mary, as being indirectly a censure of Elizabeth. Their foreign policy was so fixed upon England that political considerations overrode any humanitarian principles. During this period the Records show that requests on behalf of those ministers who had been imprisoned for their violence of diatribe despite the concessions of the late Assembly, almost always had a secondary motive in attempting subtly to dissuade the King from active intervention on his mother's behalf, and from support of any Papists. By virtue of its general commission it requested as early as 14th March 1587 that a General Assembly might be called on account of the "greit necessitie". Such an Assembly would doubtless have made strong representations on the point of policy. (1) Yet the Assembly itself was not absolutely impartial even against suspect Papists. The slackness of the Presbytery to take up the case of the Master of Gray and his "trafficking" may be attributed to the fact that he had been so instrumental in effecting the return of the Lords. (2) The King apparently neglecting this suggestion the Presbytery began to exercise its general commission in no uncertain way. On 11th April it found good that "ane letter be writtin to sum of the presbytries within this realme to direct sum of ther commissioners to the next conventioun of the Nobilitie to be convenit in Edinburgh To crave redres of the manifold abusis within the Kirk" (3) This convention of the nobility must be that of 10th May and the suggestion seems to be that in the event of the King's unwillingness to summon the Kirk the Convention of Nobility or Estates should be appealed to. This seems to be precisely what happened. On 18th April they sent again to the King and at last on 2nd May received his permission in general terms. The precise date however was only fixed after or during the Convention. (4) Thus the commission of the Kirk which dealt with the Nobility or Estates was a kind of convention itself composed of representatives sent from such Presbyteries as the Capital Presbytery chose to warn. St. Andrews which was one of this select number appointed Andrew Melville and James Martin but referred conclusion to the Synod. (5)

(1) Edin. MS. Pres. Recs. 14th March 1587 No reference is made to Mary's death.

(2) ibid. same date (3) MS. Edin. 11th April. 1587

(4) On 18th April they insisted upon measures being taken by the Council against Jesuits returning from France to "corrupt the simple". Convention of Nobility mentioned C. IV. p. 613 P. C. R. IV. p. 164. 10th May. The proclamation for the Assembly was dated 24th May.

(5) ST. Andrews. Pres. MS. 20th April 1587 "Upon the requeist of the brethren of Edinburgh that some commissioners suld be send to the Convention of the estaittis to be holdin at Edr. the 10 day of Maii.

The Proclamation which was the result of these demands stated expressly that in summoning the Assembly for the 20th June.(1) the purpose was that report might be made to the Parliament which was to meet in July, so that matters of advancement of religion and establishment of Ecclesiastical Policy may receive approbation and confirmation in Parliament. The method of summons was by warning from the officers at arms to Bishops ministers and others having interest (i.e. elders whose attendance had been sanctioned in the last Assembly), and the return of names was to be in the King's hands before June 12th. Perhaps the King desired to investigate exactly how far the Barons upon whom he was about to confer Parliamentary status supported and resorted to the Assembly whether by obvious commission or simply as an extraordinary meeting of their particular Estate.

- When the Assembly did meet the King was absent in Falkland, but responded to the request for representatives by sending the Secretary and Justice Clerk. There was a good deal of interaction on minor points connected with the
- (2) "reponing" of violent ministers, the Books of the Assembly and the question of Pont and the offer of the Bishopric, but these seem to have been contained in letters sent to his Majesty. The chief formal demands were prepared as "Articles which were entrusted to a commission of 21 ministers in which the ministry of the Presbytery of Edinburgh were
- (3) strongly represented along with the heroes of the Church. The situation was an important one. On 19th June the King had attained his majority and the usual revocations and reestablishments were expected. In expectation of this the Assembly prepared an overture that "seeing his Majesty is now of perfect age and a Parliament is appointed in the next month"...that all acts of Parliament in support of the Kirk be collected for ratification, and similarly that contrary acts be collected for abrogation. (4)

With somewhat remarkable moderation the Kirk was prepared to bargain on the point of the King's five demands (they were on no general questions but concerned individuals only) if the Kirk's Articles received a good hearing in Council and Parliament. (5)

The gist of the complete list of Articles does not appear to be extant. One certainly was a protest against the granting of office and benefice to Papists, (6) and another on a point of law in connection with the Commission for Deprivation, but the chief end was to obtain indubitable ratification and to admit as few exceptions as possible to the orthodox Presbyterian discipline

(1) P.C.R. IV. p. 174. It was called a General Assembly of the Ministry.

(2) B.U.K. p. 686; 689; 697

(3) B.O.K. p. 700

(4) *ibid.* p. 688 Three of the 6 to prepare the acts were of the Edinburgh Presbytery as being most conversant with the

Acts of Parliament. (5) B.U.K. pp. 699; 701

(6) *ibid.* p. 702; 698

The commission given to these 21 ministers was a comprehensive one. They were to "present with all humilitie due submission and revernce to the King's Majestie and Lords of the Articles of Parliament such articles and humble petitions givin to them by the Assembly and to suit for the establishment of these by law. They were to confer with King and Parliament (i.e. the Lords Articles) on any obscure points and on the King's own demands". To prepare and formulate their programme "that they may be readier and more resolute" they were to hold a meeting on the 10th of July. (1) The Convention of Royal Burghs met in Dundee in the interval between the Assembly and the Parliament and it is to be presumed that some joint action was arranged between them although unofficially. (2) Their procedure showed the same tendency regarding re capitulation of privilege and two at least of their articles show some relation with the Church although the Burghs were not as arule sympathetic to Church claims to independence.

There is evidence of the attendance of these commissioners in this important Parliament which is a landmark in the economic and constitutional history of Scotland. They did not confine their activities to representations to the Lords Articles. Before these were elected Pont Lindsay and some others having commission from the Church protested in open Parliament against the presence of Bishops and Prelates in Parliament as having no authority to vote in the name of the Church. A spirited debate took place in the presence of the King in which the Abbot of Kinloss (Edward Bruce) defended the position for the Prelates (3) but the question was referred to the Lords Articles in the personnel of whom the Prelates had a large proportion. It was presumably after the election of these that Lindsay's protestation was registered. "That nane be sufferit to vote onie thing in name of the Kirk bot sic as hes functioun in the Kirk and quha sall have commissioun of the Kirk to the effect foirsaid (4) The writer of the History limits it still farther to the exclusion of layvelders by adding the phrase "by preaching and administration of the sacraments". (5). This was more than a mere denial of the right of the uncommissioned to sit. It was an assertion that the Kirk should be there by indubitable representatives and those must be of the actual ministry.

- (1) B.U.K.p. 700 The Parliament was fenced 8th July. The Articles chosen 13th. The meeting of the Commissioners of the Kirk therefore corresponded to the preparatory meeting of the separate Estates.
- (2) R.C.B.I.p. 234 of the act for the minister at the Staple. the demand that schoolmaster sgould be prohibited from using function of the ministry or notary, and that all testaments should be confirmed in the Commissary Courts
- (3) See. Rait.p. 175; Lee.II.p. 97 Sp.II.p. 375
- (4) A.P.S.III.p. 427-8
- (5) History James.VI.p. 232

The final list of Acts shows that the Commissioners obtained what they had been in the main sent to do, i.e. ratification of Kirk Liberties (A.P.S.p. 429 cap 2) and of the acts against the opposers of the true religion (cap. 3). They also gained a share in the right of search for Papistical Books along with the Provost and Bailies, for which a previous act of Parliament had proved ineffective (cap. 4). Acts were passed for preventing disturbances in church and for the protection of the ministry from violence, long a repeated complaint of the Kirk (1). By the 7th Act the Commission for Deprivation had their power extended to include prelaties as well as inferior benefices but the idea of a civil service paid out of the revenues of the Kirk is retained in the prohibition to the Commission to proceed against members of Council and College of Justice and those abroad on royal embassies, for non residence provided that suitable ministers were placed in the vacant charges (cap. 8). The former petition of the church on the question of relief from taxation of the annate and fifth penny for the Guard of all benefices of cure under prelaties was granted (cap. 5) and the case of the poor labourer and his teind was not for: gotten (cap. 31)

But the most important acts both from the economic standpoint and for ultimate effect upon its representation for the General Assembly were the Eighth, - for the Annexation of the Temporalities of Benefices to the Crown, and the 120th For the inclusion of the Smaller Barons and Lairds as a new Estate in Parliament. The latter was of importance to the Kirk for two reasons because it gave their allies the gentlemen a legal right to attend Parliament on a representative basis (not as mere nominees to Convention) and so a share in the work of the Articles which eventually considered all Church proposals, and also because in the same proportion as this innovation made Parliament more representative so it diminished the authority of the Assembly which had tended to collect all the powers of an extra Parliamentary Opposition. But until the Assembly definitely challenged the prestige of Parliament and until the conservative reluctance of the Lairds was overcome the system seemed to hold several advantages for the Church. (2)

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- (1) Violence against a minister was to be tried before a Criminal Judge and punished by forfeiture of the whole movable good of the offender one half going to the King and the other to the minister and this without prejudice of punishment for the crime of slaughter. A.P.S. III. p. 430
 - (2) Their summons to General Councils was to be of these shires nearest just as in the case of the Burghs; this is comparable to the procedure of the Edinburgh Presbytery in warning the next adjacent Presbyteries to those vague conventions of the ministry to which the lairds so often resorted. Both Kirk and State had this element of arbitrary choice in the hands of a Central Edinburgh Authority.

Spottiswood states that by the Act of Annexation the zealous hoped the end of Episcopacy was at hand since the Bishopricks were largely founded on temporal lands and the principle of their presence in Parliament was largely that of Land tenure. The ministers thought that all the tithes of these annexed lands would be given to them, but in point of fact the only people who benefited were temporarily the Royal Treasury and secondly the temporal lords who received eventually the gifts of the temporalities (1) The Ecclesiastical Estate accordingly left with teinds and the houses and castles of the prelates could not supply the Ecclesiastical taxation and this meant the practical abolition of the Bishops in Parliament.

Thus the Commission of the Kirk had been in attendance at a Parliament which revolutionized the whole financial position as regards the Church and its relation to the State. Fear of the defection of the lairds may be seen in the anxiety of the Presbytery of Edinburgh to have the concurrence of the gentlemen at their meetings (2) but beyond this there seems to be no discussion on the questions in the "watchtower" of the Scottish Church.

Collections as always for various purposes offered good means of communication between Presbyteries (3) and in the collection for the distressed Church of France the co-operation of Dundee and Montrose was invited. A campaign within the Presbytery was begun against the great apathy of many towards religion and in the same way they organized schemes not only for their own bounds but sent letters to all the Presbyteries of the realm "to give information to all the country to beware of Jesuits" (4) Particularly did they appeal to the gentlemen "to profess themselves ready to maintain religion with hazard of their life and heritage". The Spanish invasion was about to be attempted and the situation provided an opportunity for the display of that Anglophile policy which often forced James to hand and prevented that exercise of political and financial bargaining which he regarded as the ideal for Scotland. For two years Elizabeth through the medium of the preachers had been preparing her people for the Spanish menace.

(1) Rait. p. 487, Connell. p. 102-107 James regarded it as a mistake. It is improbable that the clause giving the prelates life rent was carried out. J.M. p. 260 says "na guid was done for the Kirk but... she was spuillzeit by a plain law of the ane half of her patrimony. Her ei in the meantime blearit with twa fear promises ane of abolishing of all Bishops and prelacies, ane uther that the haill teinds suld be peaceably put in the Kirks possession" See A.P.S. III. p. 431

(2) Recs. MS. 17th Oct. 1587

(3) 21 Nov. 1587 MS. Edin. Recs.

(4) ibid.

(5) 28th Nov. ibid.

The Edinburgh Presbytery now on its own initiative or perhaps because it contained a majority of that general commission of the Church, on 19th December 1587 appointed Bruce Pont Lindsay Balcanquhall Craig Rollock and Brand to pass to the King's Chancellor and Justice Clerk "craving of his Majestie a licence that bayth ministers ~~garronis~~ and ~~burrowis~~ may convene for ressoning and concluding upon the best way and mein to resist sick dangerous proceedings" and after their advice given that the Royal Linence be given to ministers and gentlemen to pass through the country exhorting men to continue in the true religion and for taking extraordinary measures to suppress Papists and Jesuits in spite of "any other charge purchest fra his majestie in the contrare"

This entry seems to make it clear that the meeting of the "wacriff" in the following January placed by all authorities in the January of the following year 1588-89 was held not after the Armada but before it and was thus responsible for the extraordinary Assembly on February 6th 1587-88 and the assumption is that the Assembly of February 1588-89 was not an Assembly at all and certainly the situation of 1587-88 was more worthy of extreme measures than that of February of the following year when the danger was for the most part over. Now the Assembly of the Wacriff of January repeats in almost the same terms the proposals of the Presbytery in December 1587 for commissions against Jesuits (1) and for permission for the ministers and gentlemen to go through the country sounding the feeling of the country and exhorting to defence against the Spaniard and Papist. My suggestion is that the Presbytery of Edinburgh finding no response to their suggestions from the King summoned one of those fairly common meeting of representatives from adjacent Presbyteries of the leading ministers and barons and organized a programme for compelling the King to call an Assembly either of the church or of the State but containing barons ministers and burghs so that a national scheme for defence might be arranged. The Church in fact was prepared to replace the Parliament as the national leader. If the Privy Council of the State would not call the nation to arms against the Spaniard the Presbytery of Edinburgh as the Privy Council of the Kirk could and did convene a body which showed itself capable of handling the situation irrespective of whether it had civil authority or not.

(1) Examination of the authorities shows that the weight of evidence is for Jan. 1587-88 and that no such meeting was held in the following year and that no Assembly met in Feb. 1589. Calderwood has no record of business and the B.U.K. follows his authority. The C.S.P. mentions no disturbance in Jan. or Feb. 1589 but it does state IX. p. 536 that there was a great assembly of the ministry in the beginning of 1588 "anent the Convention of the Kirk and the gesevittes". The Privy Council would have had more cause in 1589 for their stringent proclamations if the wacriff were meeting then but there is no record. If held in 1589 why did Andrew Melville preside. If in 1588 he had every right to do so.

This Convention of the Wacriff therefore which I have placed in January 1587-88 is a striking instance of how a Kirk Convention could replace the Parliament as an expression of National feeling. There are some evidences that this national feeling was created by the Kirk itself. That their programme was dictated by the Edinburgh Presbyteries seems to be indicated by the list of petitions which they presented to the King. They asked permission for the Presbyteries with barons and gentlemen to consult upon remedies for the dangers, i.e. local committees consider the national dangers and defences not as members of the body politic but as organizations of the Kirk and their report was to be made to the King before 20th January. That immediate commission be given to some Councillors to try Jesuits, and that ministers and barons travel the country to urge Nobles Barons and Burghs to remain constant in the defence of religion. A committee of 20 composed of 10 laymen noblemen lawyers and burgesses prepared means of immediate execution as a result of which a central committee was set up consisting of the Clerk Register, a senator of the College of Justice 4 advocates the Provost and two burgesses of Edinburgh and Bruce Lindsay and Pont, to which each Moderator of Presbytery was to send the information collected in the districts on all matters concerning religion. That the King was agreeable seems to be evident from the fact that members of the Privy Council were present. The date of the extraordinary Assembly was fixed for the 6th February in place of the July meeting. Since they had the consent of the King to convene (cf the 1584 Acts) the ministers were to urge the barons and gentlemen to take commission from the Synods who were to meet for the purpose before 23rd January. Probably this exhortation to the Barons may have had some connection with the meeting of the new shire

contd

by virtue of his position as Moderator of the last Assembly in June 1587, otherwise it should have been Smeaton who was Moderator in August 1588. The original source therefore seems to be the statement of James Melville who wrote "January 1588". It is significant that nowhere are any authentic accounts of the February 1589 Assembly to be found. It seems strange that both the extraordinary Assembly of 1588 and the equally extraordinary Assembly of 1589 should have precisely the same date February 6th. It seems to come to this. Did James Melville write 1588 meaning 1588-89 or 1587-88? The internal evidence of the business of the Convention of the Wacriff is ambiguous. "The Papists in Lieutendry and Wardenry may refer equally to Maxwell 1588 and Huntly 1589. On the whole from the evidence of the Edinburgh Records and from these circumstances it seems probable that these most important meetings from the constitutional point of view took place in 1588 before the Armada rather than after the crisis was past.

Certainly in 1589 the affair of the Brig of Dee was in agitation and Anti Papal feeling was strong, but after examination it seems more probable that 1587-88 was the year.

in January or February of the same year. They were to meet the King on 1st February and the inference seems to be that some overlapping of the two systems was counted upon. The barons obeying the King's order for elections might at the same time appoint delegates for the General Assembly, and this may account for the assembly elections taking place in the collective meetings of the Synods. The system anticipated was rather how: ever on the principle of mass representation. They were to "take commission" from the Synods but as numbers were unrestricted this meant only a slight advance in formality. (1)

A convention of Royal Burghs met also in Edinburgh from Feb 6-12. It seems probable that the Burghs which came to the Assembly took advantage of the occasion to hold a Particular Convention of their own although their business did not consider the question of the national crisis. Thus we have some Barons meeting with the King on 1st February, Some Burghs on the 6th and the Assembly on the same date. These meetings therefore look like meetings of the three Estates which coalesced round the Central Committee of ministers and Edinburgh citizens. (2)

In the record it is stated that the Assembly was convened by the King's call. His sanction had been obtained but the organization of the Church was complete without his interference. His commissioners were appointed members of the Privy Conference. Robert Bruce licensed only in 1587 was (3) moderator, probably because as a son of the House of Airth he had some influence among laymen and at Court, and to consider the extraordinary situation i.e. "the readiest way to quench the present fyre of Papistrie kindlit throughout the haill countrie" the Assembly borrowed Parliamentary methods. After the appointment of the Assessors (cf the Lords Articles) separate meetings of Estates were appointed to convene apart and report the results of the deliberations of their Estate to these Assessors. The Estates were Ministers, Barons and Gentlemen, and Burghs and the advice of the Barons which included some members of the Higher Nobility was that which according to feudal principle in Scotland was adopted. This advice was precise, execution of laws against Jesuits the Assembly giving up all its information on that score to the Treasurer, that the King take immediate action to cope with the national situation, and in addition it suggested a mass representation to the King to impress upon him the urgency of the crisis. That this last suggestion was adopted (4) is clear from Spottiswood and the King's refusal to receive them

(1) P.C.R. IV. p. 245. see Rait. p. 209

(2) R.C.B.I. p. 269 cf with list of Assessors. B.U.K. p. 703

(3) J.M. p. 271 "the godlie for his puissant doctrine..lovit him the warldlings for his parentage and place revered him and the enemies for baith stude in aw of him.

(4) Sp. II. p. 380 They went in the afternoon to Holyrood. The King enraged refused to receive them "They meant to boast him with their power and force him to execution of their demands"

was the natural reply to a threat of force. His statement however that he had given them no warrant to assemble seems strange. He may of course have given his consent for local organizations as suggested by the "Wacriff" but had not realized that the Kirk National organization would be competent to convene such a representative body in so short a time. It must have been the lay element to which he objected for his Commissioners certainly were present in the Assembly itself. The compromise however was effected by the nomination in Assembly of a representative commission to go to the King with the Kirk demands when summoned by the Chancellor. Curiously enough this commission contained 3 Lords of Privy Council. i.e. Mar Angus Marischal - the more Protestant Anglophile party, 2 Lords 4 Lairds 2 Burgesses and 5 ministers. The Assembly would thus seem to have collected within itself the Opposition even within the Privy Council. There seems to be little doubt that in this instance the Assembly was the national Representative body the Opposition Parliament which in the absence of the true Parliament compelled attention to foreign and domestic policy. (1) But the force of circumstance was so great that the King could not maintain his attitude and had to submit to conference with as good grace as possible and appointed 6 of his Council to confer with delegates of the Assembly on details which the commission mentioned above had not had opportunity to discuss with the King himself. The Assembly's nominees for this second commission show the determination to make all their negotiations representative of the people or at least the "commons" of the realm. 5 lairds 4 burgesses and 4 ministers constituted this commission. The position was a triumph for the Church, and their formal articles show an appreciation of their power although they claim quite clearly that the Assembly met with the royal consent to give advice on the suppression of the menace to religion and on the means of avoiding the dangers. The whole of the "intelligence" collected by the districts as to the increases of Papistry was imparted to the King, with the suggestion that this might have been prevented if the surveillance of ministers in sufficient numbers had been obtainable. The obvious remedy was the plantation of Kirks by collaboration with the Civil Arm and in furtherance of the scheme the Kirk nominated 3 ministers for the South and 3 for the North to act in concert with delegates of the Council to further the work of suppression of Papistry and the reform of schools and colleges (3)

(1) B.U.K. p. 705

(2) ibid. p. 713

(3) ibid. p. 714-715

That did not forget to remind the King of the necessity of punishing vice and for taking immediate order for the poor "that in such multitudes wanders up and downe the countrey without law or religioun"(1) "Additional Greeves" even more vehemently bemoaned the lack of execution of the Anti-Papist laws and the apathy of the commons while the late act against Violence to ministers had made no impression.(2) The list of indictments in the majority of the shires seems to be an admission that the hold of the Church on the people was slender as we know from other sources(3) and the feudal element was a perpetual menace to the authority of the Kirk. It was not only for religious motives that the ministry cultivated the favour of the laird. Without his "execution" the decrees of the Kirk would have been simply forms of expression for the central authority was too weak to provide any counterpoise. Even the final penalty of excommunication might be repudiated by a strong feudal lord. e.g. Seaton(4)

The power of this national Assembly however was such that for the moment it looked as if the majority of Kirk problems would be solved under the threat of the Spanish terror. The Lords of Chekker sent particular requests for the advice of the Assembly as to how they should proceed in the matter of ministers stipends the whole system of which ought to have been reexamined in the light of the Annexation. The Assembly suggested a joint board of ministers and Chekker to make a temporary arrangement for that year but to conclude a

(5) "Perpetual Platt" pending approval in detail by the Presbyteries

The Assembly concluded with arrangements for a fast(6) and fixed its next meeting for August. Who then was left in charge of affairs for answer and conference were necessary for the execution of its demands. The Commission for this end (for some such commission did exist (7) was probably that body of 9 laymen and 4 ministers(8) already appointed for conference with the Privy Council. The Burgh members would almost certainly return home, the lairds who stayed some distance away would not be regular in their attendance. The duty therefore would seem naturally to devolve upon the Edinburgh group assisted by the Fife members who could be easily advertised of sudden developments

(1) B.U.K. p. 713 (2) cf. the Records MS. of St. Andrews Pres.

March 9th 1586-87 The Laird of Carslogie's invasion of Mr Patrick Arthur. He "struik him with his sword betwix the schulderis it being in the scabbart and the said Mr. Patrik tuik aff his hat and thankit the saed laird" ! Another case on 14th May 1590 shows that the minister was often a good swordsman. Mr. Thomas Douglas had broken the Laird of Forreth's sword in a similar encounter.

(3) cf. Cott. Cal. C. IX. no. 275 The commons disposition the religious part follow England, but their numbers are not great "specially after so long preaching of the gospell" and the use of discipline. The reasons for this were the "licence and disorder of the most part of the nobility that can bear no yoke and draw their followers clienrs etc after them by their example

contd.

That the King had resented while submitting to this extraordinary meeting is obvious. Before the Assembly had dissolved he had passed in Privy Council an act (19th February) which while it might refer equally to Papists and Presbyters seems in its intention to aim directly at those conventions of ministers which had made the extraordinary procedure of the Assembly possible. "the sundrie conventiounes conventicles privie and publick trystis and meetingis kept of late amongst his Hienes nobilitie and otheris his subjects in divers his Hienes burrowis and other partis of this realme, his Majestie being nowayes maid privie of the causis of sick conventiounes... discharging all such conventiouns without exception. (P.C.R. II 253) This illustrates the vigorous propaganda which the Kirk had organized in order to obtain the expression of national feeling at the February Assembly. It also shows that if the King consented to the petitions of the Wacriff on this score he had had no idea of the scale which they contemplated. In any case he was resolved on no other occasion to have his policy dictated to him by a body which was neither Parliament nor "Convention of the Ministry" but, in reality an Assembly of the classes which in England formed the House of Commons. (see Lee. II. p. 100)

The Commission of the Kirk and its parent body the Presbytery of Edinburgh had therefore to be wakeful. No event of national interest passed without the Presbytery making some representation upon it to the King. e.g. the attempt of Huntly to change the Officers of State (C. IV. p. 677) naturally connects itself with the petition of 25th March to beware of Papi

Notes continued.

- (3) The second cause was "thei often mutinies and disturbances that dissolve all order ecclesiasticall and civill. The best affected are of Edenborough and some of the greater townes of the South. The rest of the Common sort follow the faction and their LObds part". The King seemeth not soundly affected towards the discipline because... it houlds within compass and takes away from the Princes authority which he thinks little enough in Scotland as it is. He was likewise not content with the power of the ancient nobility and for this purpose advanced the Earl of Arran.. to abate their authority" by some other of new creation. The Kirk was thus a supporter of feudalism. England on the other hand while using the political power of the ministers did not hesitate to congratulate itself that it was free from their interference, In Scotland "neither the authoritie of the prince greatlie obeit nor the discipline of the church with anie devotion followed... (Cal. D.I. p. 260 Feb. 15 1588-89)
- (4) Haddington Pres. MS. Recs. passim
- (5) B.U.K. p. 726
- (6) For the Papist Conspiracy, Defection of the Multitude, and wrack of the Kirk's patrimony.
- (7) See text of Proclamation against Jesuits 20th May. P.C.R. IV. 285
- (8) Lairds Wedderburn, Colluthie, Caprinton, Ormiston Whittingham, Comms. of Edinburgh, Dundee Aberdeen, Perth, and Pont Lindsay Melville, Blackburn. B.U.K. p. 707

Papists.

But in return for his reluctant concessions James obtained the propagandist support of the Kirk in his enterprise against Maxwell who was implicated in an attempt to ~~aid the~~ Spanish schemes(1). Very fittingly when the King had concluded his expedition the work of settlement was entrusted to him who was commonly known as the "Ministers King"(2). Immediately upon James' return to Edinburgh the Presbytery produced urgent demands for punishment of individual Papists. There are indications that the Commission of the Church or the Presbytery had not ceased to urge the execution of such concessions as James had made. It must be due to their activities that in the last week of July some kind of a Convention passed resolutions which virtually accepted the Kirk programme. The Armada was in the channel and James resolved to waive distinctions in the matter of authority and to utilize the organization which the Church certainly had promoted. The inference must be that the State simply took over plans which the Kirk with the aid of the nobility and gentlemen had been prepared to put into execution in any event. The Assembly in fact in time of national crisis found itself competent to lead and direct the expression of nationality which in the absence of the Parliament (which had not been summoned) found no other outlet)

- The substitute for Parliament an augmented Council or Convention of Estates meeting on 27th July put into
- (3) execution all acts against Papists and Jesuits rebels vagabonds etc by means of a plan which directly followed the Assembly's suggestion in the appointment of a large commission allocated to various districts. They were to arrange baronial feuds put acts for the Poor in force and most important of all they were to hold wapinschaws and be ready to resist "all outward and domestique invasioun tending to the danger of God's trew religioun or the trouble of his Hienes Estate and commoun quietnes of the realme" Within the Burghs the Municipal Authorities were given these powers but in the districts the chief landowners. This corresponds very readily to those unofficial organizations which the proclamation of 19th February had set out to prohibit and which almost certainly were the result of ministerial efforts. The State in the crisis therefore
- (4) accepted them as they were, and on 1st August produced another definite scheme for musterings and balefires should a landing be attempted. The commissioners of the districts were largely those who were accustomed to attend the Kirk and its convention

(1) See. Pres. Recs. Edin. IIth June. 1588

(2) C. IV. p. 680

(3) P. C. R. IV. p. 300; Sp. II. p. 385

(4) *ibid.* p. 307 These acts were proclaimed the very day before the Assembly met. Was there a feeling that the Council would have to account for its negligence to the national feeling of the country as represented in the General Assembly.

The General Assembly meeting on the 6th of August was therefore more than a mere convention of the Kirk. The two questions with which it had to deal showed its dual function (i) "the menace to Kirk and Kingdom by the arrivall of forrane nationns as Spaniards and barbars" and (ii) the decay of religion owing to the scarcity and poverty of ministers occasioned by the perpetual inroads upon the Kirk patrimony. As before in time of crisis the Assessors held a **good number of laymen**. To deal with the first point an organ: ized fast was proclaimed in Edinburgh during the time of the Assembly. That the people appreciated the part that the Kirk was taking is evidenced by the large numbers of people of all classes who crowded to the capital upon whom the Kirk pulpit propaganda undoubtedly had an enormous effect since the most reliable news was disseminated by that means. The absence of the King left the Kirk a free hand in this direction and they used the opportunity to exhort the people to defence of religion liberty of the country and the maintenance of the King. To make sure that measures were being taken the Assembly delegated Lindsay and Duncanson to go to the Court to remind the King of his duty that "with concurrence of the Nobilitie and the realme he may be provided for timous defence". The Assembly in fact was acting the part of a resolute Parliamentary body exercising a careful vigilance over the executive.

On the second point which the Kirk persisted in regarding as of immense consequence a committee of 6, (1) 3 laymen and three ministers considered the whole position with regard to the revenue from the thirds both in the matter of the ministers portion and of the Royal Superplus. And that there might be no mistake about the commissions appointed in the late act of Convention for the punishment of Papists they gave in a list of their own nominees composed of the Chancellor Justice Clerk Treasurer Clerk Register, 4 advocates the Captain of the Castle 2 Lairds The Provost and a burges of Edinburgh, to deal with a particular quota of suspects within the district. (2)

How far the Assembly was prepared to go in the execution of civil affairs is emphasized in the incident of the suspected Dunkirk ship. Though unmentioned before it is evident that the members of the Privy Council were in attendance upon the Assembly as realizing its national importance for they joined with the Assembly in the request to the Provost and Magistrates of Edinburgh to "man the ship take the men and keep them quhill his Majestie come ovir". When the Magistrates refused "in respect it wilbe ane hindrance to thair traffick" three of the most powerful ministers went to inform the Chancellor offering their assistance in urging the town to agree. (3)

(1) B.U.K.p.730 Colluthie Provost of Edinburgh John Johnstone Lindsay Pont Ferguson.

(2) ibid.p.731 Once more the importance of the Edinburgh group is obvious.

(3) The ship was suspect as a spy "out of quhilk ane man as appeis to be of some note is landed" The Burghs always had a reluctance to prejudice their Spanish export trade. B.U.K.p.732-3

The attitude was a peculiar one for a "Convention of the Kirk. Only the sense that it was replacing a lack in the National Constitution gave the Kirk its excuse. Those who had dealt with the King on the question of the national situation reported in the 7th Session the King's good mind towards religion and his zeal in defence of the country and the Kirk influence in policy is illustrated by the Act of Council which on 10th August which reinforced the measures for resistance. The Assembly was gratified at its success and sent a delegation of 4 ministers and 2 Lairds to thank the King in the name of the Kirk. (1)

In the affairs of finance and kirk privilege the Assembly took up an equally determined position and made enactments which virtually set at defiance the grants of temporalities made by the King since the Acts of Annexation even those ratified by Parliament. While urging the King that Presbyteries be not processed for refusing to accept the presentations offered by these new patrons they practically begged the question by prohibiting the Presbyteries from giving collation upon these presentations. (2)

Those most concerned in the minor petitions offered by the Assembly to the King were members of the Edinburgh Presbytery e.g. the 11th Session, and again a most important duty was delegated to them to summon before them all Papists resorting to the Town or Court; this imposed a great obligation upon the central group for the Court was the centre of all intrigues, and the records show that the Presbytery devoted an enormous proportion of its time to this function. The Presbytery was thus an important standing Commission of the Kirk. But a formal commission which contained also a good number of Edinburgh ministers was appointed to wait upon King and Council to consider such questions as the "decay of religion, provision for ministers and for schools and colleges" in full detail, and this commission of 14 ministers was the General Commission to which various unanswered bills and questions were referred with full power to decide. In any case the Presbytery of Edinburgh was always at hand in case of unforeseen difficulties. (3)

(1) B.U.K. p. 735 P.C.R. IV. p. 314

(2) *ibid.* p. 733

(3) *ibid.* p. 737 Pentt. Bruce, Lindsay, Adam Johnstone, Craig, Andrew Mill, Th. Buchanan Andrew Hay, John Porterfield, Blackburn Duncanson, Ferguson Stirling, Gardein.

Their proceedings against the Papists began at once upon the conclusion of the Assembly. Chisholm the Comptroller asked conference, Colonel Stewart promised satisfaction, the Seatons simply did not come at all, and the cases dragged on interminably referred to the Synod which referred them back to the Presbyteries. The Kirk reluctantly proceeded in some cases to the usual admonitions and forms of process, but the offenders usually submitted before the full procedure was done, only to fail time and again to make any full satisfaction (Pres. Recs. from 27th August right up to the Assembly in June.

The Presbytery's activities in these directions were hampered by the fact that the persons they were proceeding against were high in favour at Court and the King frequently interfered with requests for delay, requests which the Presbytery was in no mood to challenge as they had done in the case of Montgomery. Their anxiety became more marked when at a Convention of Nobility Huntly was appointed Captain of the Guard the body which shared with the Kirk in the fruits of the Church patrimony. (1) Bothwell had left his old allies to enter into dealings with the Papist Lords and he had already entered upon his turbulent career. It was realized by all parties that the new estate of the lairds was capable of exercising a vast influence in politics. Was it due to the persuasions of their allies the kirkmen that they sent an offer to the King to bring Bothwell and any other Earls he would name captive before him "for these insolences are not to be suffered in Scotland" (2) They were prepared to act in the interests of public order, and were rapidly becoming the decisive factor in the Government of Kirk and State. "The greatest strength of Scotland" said Asheby to Walsingham, "consisteth in the gentlemen whom they call the lairds, and the boroughs which are almost all well affected in religion. The King with these may easily bridle the earls. Certainly both the King and the Church here are in most miserable state neither of them able to maintain their households which must bring ruin to the whole statt" (3) The English onlooker saw no hope of improvement by way of Parliament which were "all for a particular interest," and had no national policy. The barons and burgesses were the only reliable estates, but the numbers of nobility were far too large for the size of the country while the merchants and crafts were relatively few and the husbandmen were exceedingly poor. (4)

Whether any extraordinary Assembly actually met in February 1588-89 is doubtful (see supra) There are certainly no records of any elections in the local records but it may be that some collective meeting of the ministry did take place. The discovery of the Papist Plots of Huntly Errol Claud Hamilton and the others certainly agitated the ministry but the Presbytery Records contain no notice of such national fervour as was evinced in the preceding year. The acts of Council show activity probably at the instance of the ministry for enforcement of the acts against Papists according to the acts of Convention of July 1588 and the commissions were reenacted for the districts with a special obligation upon ministers to receive proof of the reality of the religious professions of all subjects. (5)

(1) C.IV.p.696 Moysie p.70.Nov.28th (2) C.S.P.1X.p.640 Nov.30

(3) C.S.P.1X.p.641 (4) ibid.p.664

(5) This certainly seems to be a point against the Convention of the Wacriff taking place in the preceding year. The brief account of this February Assembly as given in Calderwood might easily be a confusion for that of the preceding year e.g. in the presentation of grievances from every province etc. The acts of Council do show evidence of kirk influence but of none of that uneasiness which leads us to place the agitation in the year 1588

- The suppression of the rebellion at the Brig of Dee and the Band of Aberdeen provided some relief for the fears of the ministers, and when the Assembly met at its appointed (1) date on 17th June it thanked the King publicly for his services.
- (2) The records for this Assembly are deficient but that it was an important one is evidenced by the fact that the Presbyteries sent large representations to it. (3) The negotiations between Kirk and Civil power seem to have been purely personal. The King attended and on the 20th made a speech in the Assembly in which he apparently reported upon the political situation. In the absence of Parliament the Assembly undoubtedly took over a great part of its function. No formal petitions seem to have been presented and the general situation was left as it was. The act "made in the last Assembly" as to the position of the new lay patrons i.e. prohibiting Presbyteries from accepting their presentations was repeated but placing censures upon those Presbyteries or ministers who should admit in spite of the act. A foreshadowing of the Barrier Act is to be seen in the provision that before a decision was reached on the question of the marriage of adulterers the problem should be debated in the individual Presbyteries. Beyond these there are no indications of the Assembly's attitude with respect to the State, although the King did obtain an admission which was afterwards to stand him in good stead. It was agreed that the King might command any minister to attend upon him and his Court. In their anxiety to obtain ready audience the Assembly laid itself open to an abuse which made itself clear in the days of the revived Bishops.

It seems clear however that the Presbytery of Edinburgh once more received several commissions. In at least one instance it felt it necessary to strengthen the acts of Assembly by local enactment of its own. (6).

The Presbytery also took it upon itself to act as a general disseminator of news and showed the interest in the trend of public events in the prayers for the King's marriage. "The brethren knowin for certantie the Kings Majestie marriage to be in hand. (7)

- (1) Appointed August 1588. B.U.K.p.739 (2) B.U.K.p.745. Peterkin used the authority of Petrie who got it from Spottiswood II.p.398. Row says that he could find no trace of this Assembly in the ordinary Book.
- (3) Edin. sent 46 lairds and 40 ministers. Haddington. 7 lairds and 3 ministers (Recs. Edin. 10th June, Haddington 4th June)
- (4) This last Assembly must be that of August 1588 see B.U.K.733 for this particular act on lay patrons. This again proves that if an Assembly was held in Feb. 1588-89 it was not counted as an official one.
- (5) B.U.K.p.746 (6) 23rd Sept. 1589 In future no minister should be appointed without the recommendation of a Presbytery
- (7) 5th August. 1589 Recs. MS

Excommunication was becoming a rarity in Church censure particularly since the King had set his face against the "summary" method. The lenity shown to the Papist Earls was such that even the warlike Synod of ~~Edothian~~ ^{Edinburgh} did not insist upon their public penitence "for it was thought but an ydle thing and that it would turne but to plaine mockery"(1) It needed all the Kirk resources and the active support of the English ambassador to buttress the discipline of the Church without putting it to such a public test(2) For the same reason the Presbytery of Edinburgh ordained the minister of Tranent to delay Seton's process and the same cause was the motive for the long delays in the case of James ~~Maitland~~ ^{Maitland}(3) Without active civil support and imposition of civil penalties the Kirk was unwilling to try how far the ecclesiastical authority would be effective.

The energy of the Edinburgh Presbytery was rewarded when by the act appointing commissioners to try beneficed persons of the 5 ministers nominated by the King three were of the Edinburgh brotherhood. (4)

In the interval between his Papist intrigues the King arranged the Protestant marriage with Anne of Denmark He left Scotland for the purpose on 22nd October 1589 and his plan was to leave the ministry and the Church as a guard over the rival factions of his council. To ensure their support he was careful to promulgate acts of Council in their favour and on their favourite topics(5). Not only the ministry but their allies the lairds were called upon to take part in keeping the peace of the country. While the Government was given to the Duke of Lennox in Edinburgh, Bothwell so lately a rebel was also to be in constant attendance and the barons and landed men of the surrounding shires were to "watch" in turn 15 days about, apparently in order to provide against a sudden revolution, and the chief nobles were placed under surveillance. The Burghs were to see that no convocations took place within their bounds and at the same time were to be prepared to defend the country. Hamilton was put in command of the South. The ministry's part was to pray for the King's safety and prosperous return, to remind the people of their duty to the King, and "to eschew alwayes all thingis that may breade and continew trouble and unquietnes amangis themselffis. (6)

(1) C.V. p.60 (2) cf. Cott. Cal. D. I. p.413 Uth Nov. 1589

(3) Edr. and Haddington. MS. (4) 15th Oct. 1589

(5) Many ministers cases received immediate execution
A fresh commission for execution of the Sabbath laws was appointed. P.C.R. IV. p.419

(6) P.C.R. IV. p.423 22nd October. 1589

Although it is not mentioned in the Act it is nevertheless certain that James and Chancellor Maitland had put the Kirk in a much more responsible position. (1) Robert Bruce with his connection with the nobility and his known gifts as a lawyer as well as ministers was appointed to be "on the counsell" and "the King recommendit the estate of his country to him and the ministrie in especial reposing as he professit upon him and thame above all his nobles" (2) The policy was to use one system of opposition against the other. The ministry and their allies the lairds as a counterfoil against the pretensions of the Higher nobility. David Lindsay the redoubtable minister of Leith and one of the Laird class in his own right went with the King to Denmark and kept the ministry and Kirk informed of public events. According to most authorities the peace of Scotland had never been greater than during the absence of the "Head of the State". He had in fact given the opposition a taste of power relying upon their influence with the unruly element to keep the peace under threat of excommunication the civil penalties of which would be readily enforced in the interval. Bruce in particular was to be mindful of Bothwell. As for the latter it was only natural that he being one of the interim Government should attempt some form of compromise. This accounts for his desire to satisfy the Kirk on all points both for his civil misdemeanours and his religious failings. (3)

Was it due to the absence of James that the Presbytery took it upon themselves to complain to Elizabeth of the sermons of Bancroft, but the Privy Council being dubious the protest was never sent lest the Protestant ally should be alienated. (4)

The alleged attempt of the Papist Seton faction to seize Edinburgh, which was defeated through the vigilance of the Town Council and the energy of the ministry led by Bruce, was probably the motive which induced the Presbytery to use its commission to call an extraordinary convention of the Church. (5)

(1) P.C.R.IV.p.430 note. (2) J.M.p.67

Interest in the King's journey is seen in Haddington Records "The quhilk day the brethren heiring report that the King was schipping to sail into Norway Requir... pray unto God for him and his princes prosperous returne... request being godlie and according to their dewtie... it was concluded that every minister within this presbitrie shall... publick intimation unto their flocks of the said desyr.... (Recs.Oct.?.)

A similar entry is made in the Edinburgh Records 28th Oct.

(3) C.V.p.68. Pres.Edin.MS.Nov.4th. see J.M.p.277

(4) ibid. Pres.Recs.9th Dec.1589

(5) The attempt was made 5th January.C.V.p.71

On January 20th 1590 the Presbytery decreed that according to "the commission of the last Generall Assemblie of the Kirk gewin to the Presbytrie of Edinburgh to convocat and mak adverteisment to all the presbytries within this realme quhat tyme thai suld think expedient for halding a Generall Assemblie It is thocht upon sundrie occasiouns that a letter be direct to all the Presbytries within this realm desyring thame to the effect foirsaid to conveine in Edinburgh the 1st tuesday of Merche (1) The meeting of diverse brethren of the ministry which Calderwood reports on 27th January seems to have been some kind of convocation which was fairly common for the purpose of preparing business for the Assembly. It was probably composed of the kirk leaders who came from different parts of the country to consult with the Capital Presbytery. Perhaps the true date of the meeting was the 20th and this decision of the Presbytery as to the General Assembly was the joint conclusion of these leaders. In any case the joint meeting which must have been quite arbitrarily selected agreed upon a letter to be sent to the King, upon petitions to be presented to the Council on various points of provision and for obtaining a more general response to the "General Band". That they did regard themselves as the Privy Council of the Kirk is obvious in the manner in which they sent representatives to the King. The Presbytery did not usually find that the concurrence of outside members from other Presbyteries was essential. (2)

On 25th February the Presbytery selected its representatives for the Assembly of 3rd March which it had called. There were 7 lairds to 6 ministers, and in the absence of a national Parliament this Assembly must have been regarded as the censor of the Lords doings in the Regency. No precise records of its proceedings however are extant but there is enough to show that the Lords realized its national power and each in turn offered to placate it. (3) using their influence to gain better terms for some of the Papist Excommunicates who were upon the point of submitting. The "minute of the general acts" which Calderwood preserved and which was probably the official account of proceedings sent out to the Presbyteries (4) is sufficient to show the enormous powers which were entrusted to the Presbytery of Edinburgh. These suspect Lords with their half formulated schemes for obtaining full control had to be carefully watched, and the Capital Presbytery with the inner group which dwelt in the "ministers nest" was obviously the body which could best follow their state craft and give warning to the rest of the Church (5)

(1) Pres. MS. Recs. Edin. 20th Jan. 1589-90

(2) Calderwood. V. p. 73. The King sent a reply dated 19th Feb. On 18th February other communications were sent probably by means of Galloway. Pres. Recs. on that date show the appointment of a committee (Pont Rollock Davidson) "for directing commissioners with Mr Patrick Galloway to the King."

(3) See. B. U. K. p. 747

(4) Haddington Records contain a mutilated copy of these.

(5) see. B. U. K. p. 748

These acts were directed mainly towards keeping the Sabbath free of markets for trial of Papists, excommunicates and non resident incumbents of benefices, but Edinburgh had so many commissions heaped upon it that its time must have been fully occupied with general business. Thus when an act was made enforcing discipline against Jesuits and excommunicates all Presbyteries had to report to the central Presbytery as to their diligence; in like manner all pastors passing sentence of excommunication were to send report to the "session of the ministers of Edinburgh" so that the net might be drawn tighter in case of the offenders resorting to the Capital, and a similar regulation was made to include "entertainers of excommunicates". In the important question of the subscription of the General Band (prepared anew by an act of Privy Council (IV.p.463 March 6 diligence of the activity of each Presbytery was reported to Edinburgh. This act of Council was obviously the pledge given by the Lords of their good will to the Kirk and was made as the preamble shows at the desire of the Kirk.

These proceedings were reported to the King who wrote from Denmark expressing his approval and satisfaction with the conduct of Bruce. (1) Chancellor Maitland was more explicit. He deliberately gave the Kirk recognition of its right to interest itself in civil policy, and expressly urged Bruce to guard against any revival of the confederacy of the ^{Big} of Dee. Maitland seems definitely to associate himself with Kirk policy and to claim the same aims as the Assembly. (2)

The period of power ended in May on the King's return. The ministry was never tired of reminding the King how much better they had kept the peace in his absence, but quarrels arose almost at once over the question of the Queen's coronation. Edinburgh records give no assistance as to how the Presbytery returned to its inferior position. (3) but the King was ready to promise almost anything in gratitude for the ministers good endeavours in the past months. The conventions of June (4) and July indicate this influence. On June 13 three ministers are mentioned as present in the sederunt along with 20 lords 8 burgesses and 6 lairds familiar names on the Assembly but in this case summoned by special writ to Convention. It may be significant that it is among these that the ministers names Lindsay Galloway and Duncanson are placed. By what right were these ministers present. Were they supplicants from the Presbytery of Edinburgh by right of their general commission or were they present to give advice at the King's summons as by enactment of the Assembly he might do. Were they there to report on the conduct

(1) C.V.p.91 (2) ibid.p.92 "I heare a great part of the invy was wont to ly on me is derived on you. I sall doe what I can to haste me home to susteane my part least ye be overcharged"

(3) A Blank in the Records. 24th March- 13 April 1591
Sp.II.p.407

(4) A.P.S.III.p.524

of affairs. It seems curious that no trace of their presence in Council is to be found in the Regency period when we should expect it more.

Bothwell who had conducted himself quietly in the interval broke out once more, the violence of Gibson was no longer restrained, slaughters and brawls recommenced as a result of the jealousies for place at Court. On 29th July a convention passed an enactment forbidding convocation of the lieges for the purpose of collecting teinds. The lairds and ministers no longer partly responsible for government began their wonted opposition policy. (1)

In the Assembly which met on 5th August 1590 (by whom it was summoned is doubtful) no time was lost, and before the King's gratitude had had time to abate he was exhorted to repeal all doubtful acts (i.e. 1584) prejudicial to the Kirk discipline. James Melville in his sermon urged the condemnation of Adamson, and a definite national demonstration in favour of a settlement of ministers stipends on a general basis to be obtained from Parliament and King. His statement contained a practical admission which from the local records we know to be well founded that hitherto discipline had only been effective against the poor and the mean. He demanded a trial by King General Assembly and representatives from every Burgh and Parish of the sacrilegious courtiers and noblemen who usurped the Kirk's patrimony, and these apparently included those who had received grants of revenues even from the King himself. (2) But such an economic revolution was impracticable

Interest in the economic situation and also the desire to enforce the observation of the Sabbath induced the Kirk to make an arrangement which aimed at the amelioration of the lot of the poor labourer. It was resolved that private and local adjustments should be made between the gentlemen and their tenants for a week day holiday so that the latter might not be compelled to work at their own harvesting upon the Sabbath. The Kirk through its ministry was thus prepared to take upon it the function of a Trades Union, and its effort seem to have been fairly successful. (3)

Intercommunication between State and Kirk was personal. The Kings commissioners The Chancellor and the Privy Seal were present from the beginning, but in the 8th Session the King himself appeared and amid much enthusiasm delivered himself of sentiments which definitely showed that he could on occasion recognize the representative character of the Assembly. (4)

(1) P.C.R. IV. p. 513

(2) J.M. p. 280 et seq. His sermon which

was thus really a declaration of Policy declared in the famous phrase that if these robbers refuse to disgorge the Patrimony it would be evident that "they fought never against Papists but against the titulars of the tithes and rents of the Kirk... so that if Christ if religion if ministrie sall be reclaimers of the tithes and Kirks geare again they sall at an instant be: come to them Satan Antichrist Papistrie and Jesuits"

(3) B.U.K. p. 769. cf. A.P.S. 1598. p. 160. c. 2 Monday appointed a holiday

(4) I charge you my good people ministers doctors elders Nobles Gentlemen Barrons to stand to your purity and exhort the people to the same. *ibid.* p. 771

Three general demands were made of him by the mouth of the Moderator, Galloway, which he answered orally. First the ratification of the liberties of the Kirk; this he said was done first in every Parliament; secondly the punishment of Jesuits etc to which he agreed unconditionally, and thirdly provision for a pastor at every church and a sufficient stipend. This however involved the economic situation and James was always wary in the matter of finance. He claimed that the decision rested only partly with him "many more hesitations" and appointed the moderator and three ministers all of Edinburgh to meet with the Council to consider the question. The King was contemplating an alliance with the dangerous opposition as a counterpoise against the nobility but he made a provision that as they urged reform of King and Nobility so he by right of the theory of the Books of Discipline had the function of reforming the faults of the ministry. The Counter Parliament had therefore good hope that the Government of the country in essential matters would consult their wishes. i.e. that the legislative power would virtually be the Council and Assembly of ministers barons and burghesses a system which might have proved quite feasible had the ministers ever considered themselves as merely one of the Estates of the Assembly. But the claims to inspiration would not admit of such equality.

In the formal petition to the Council therefore the Kirk asked for a recapitulation of existing acts and formal establishment of the jurisdiction and discipline. Pending a Parliament they were content with ratification by Act of Council. The points touched upon were the provision for ministers, their protection from violence etc. But the important claim was for the appropriation of the whole tithes and other rents of the Kirk for the support of ministers schools colleges the poor and other common affairs. (1) and to make this clear it was appointed that every minister sign the Book of Discipline which embodied this principle. An Act of Council of 11th August answered the majority of these requests with of course the exception of the last. (2)

In the abolition of the Commissioner Bishops of 1586 their function of suiting for stipend at the Platt was given to an elective representative from every Presbytery and the individual ministers were thus saved the expense of attendance upon that body's deliberations. This representative had his expenses paid by contribution of the other ministers one of the first instances of the idea of paid commissioners in the Kirk constitution. (3)

Although an armed neutrality had been the position

(1) B.U.K. p. 772

(2) P.C.R. IV. p. 221

(3) B.U.K. p. 775

during the King's absence the Kirk now demanded punishment of the civil and religious offence of the rebellion of the Brig of Dee. Although they had been pardoned by the King the Assembly appointed the Presbytery of Edinburgh with 8 or 9 others to cite all Earls barons and freeholders as well rebels as compliers to make satisfaction under pain of excommunication before 1st February, and report came in from all parts of the country to the central Presbytery. Kirk discipline like Royal Justice was strong against the "mean" but of little force against the Feudal noble.

(1) 1591 When the Edinburgh records recommence they are concerned mainly with the reconciliation of feuds among their own baronial supporters but their interest in foreign affairs is evidenced in the consideration which they gave to the point raised by the Edinburgh Session as to what should be done with persons "quha daylie wssis traffique in Spaine" (2) and they investigated carefully a rumoured plot against the King's life. Bothwell had been accused of witchcraft and the King himself was always interested. He asked the Presbytery particularly whether the crime of "consulting" demanded the same punishment as witchcraft itself and raised the constitutional point whether the Crown might dispense with that punishment of its authority. The Presbytery gave peremptory answer that no such power of dispensing should be admitted and that both crimes were equally penal. (3)

The intercourse between King Council and Presbytery is almost constant. Seldom did a Presbytery day pass without some representation being made to his Majesty for stipend punishment of Papistry etc and occasionally the King sent likewise to them for their concurrence in the punishment of offences. (4)

The Presbytery had its usual commission to appoint the next Assembly in case of extraordinary summons. Although the date remained fixed in this instance the King indignant at a renewed public attack upon him from the pulpit demanded that an Assembly be held in Edinburgh instead of the appointed place Aberdeen. It was to the Presbytery that he made his demand and on 8th June that body decided to agree and wrote their letters to the Presbyteries for that effect. Although Edinburgh had made its election for the Assembly in May (25th) no sooner was the date altered than they increased their representation from 4 ministers and 3 lairds to 6 ministers and 8 lairds. Thus if a majority vote of individuals obtained Edinburgh must necessarily prefer an Edinburgh Assembly (5)

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- (1) 13 April 1591 On 27th April they found that they had a General Commission from the Assembly to "take up deadly feuds,
 (2) Recs. May. 4th 1591 cf. Supra "Relations with Royal Burghs"
 (3) 11th May. 1591 No dispensing with the law of God.
 (4) Passim. King's request. 25th May. for assistance of his justice for execution of the various acts affecting the Kirk.
 (5) Recs. cf. 25th May. and 29th June.

The proportion varied according to the expenses of travel. The Assembly therefore met on July 2nd in Edinburgh. A violent quarrel on the point of the Kirk Jurisdiction in relation to the Court of Session resulted in the presence in the Assembly of the President protesting that a case of slander involving a member of the Session and a minister was a civil action and should not be judged by the Kirk while the action was proceeding in the Law Courts. In spite of the legalities of the case the Kirk persisted in its right to purge its own members and since the arguments were likely to be lengthy referred the whole business to the apparently all competent Edinburgh Presbytery. On 3rd August that body was discharged by the Chancellor from proceeding and the case might have become a test one had not the King intervened to arrange a settlement. (1)

The Assembly's sense of power is evidenced by the formal demands which it made to King and Council which involved a considerable amount of legislation. These were partly on the old demands for execution of Statute, against particular Jesuits and Papists and excommunicates, Sabbath Markets, Violence to ministers and punishment of murder. The Kirk as a rule normally used its summary excommunication against a notorious murderer. If excommunication had been effective the result would have been equivalent to horning as a rebel but this was seldom executed and the culprit often could defy both civil and ecclesiastical censures if his feudal supporters were strong enough to defend him.

On the point of Kirk Finance the notable demand was for the repeal of the Act of Annexation of 1587, the discharge of the recently created prebends and patronages, the relief of ministers from taxation on small benefices with various rights of stipend and perquisites. (2)

These demands were obviously so far reaching that no immediate decision could be expected. The result was an appointment of a small committee of three, the leaders of the Edinburgh Presbytery, Bruce Lindsay and Pont to deal in commission with King and Council. That the Presbytery was undoubtedly regarded in an advisory capacity is probable from the fact that once more it received the duty of altering the date of the next meeting should a Parliament intervene. (3). The Parliament for the Kirk is the final authority and it seldom confused it with the Convention of Estates which gradually approximated to it. Thus no attempt was made to co relate the Assembly with the Convention of August and there seems to be no trace of Kirk influence in that meeting. (4)

(1) C.V. p. 138

(3) ibid. p. 785

(4) A.P.S. III. p. 525

(2) B.U.K. p. 784 an article on Egyptians was also submitted. ibid. p. 780 and on Robin Hood Plays p. 784

The Convention was mainly called for the purpose of depriving Bothwell and regulating the "Cunzie". There is no mention of it in the Presbytery Records which usually are eager to notice any such Conventions.

Yet when a Parliament was proclaimed for the xxday of November the Presbytery according to its commission appointed letters to be written to all parts of the realm warning these concerned to attend a General Assembly two days before. (1) but this seems to be the only notice of such a Parliament and presumably both it and the Assembly were cancelled for there is no trace of either meeting.

- The records show the great press of business with which the capital Presbytery had to deal. Petitions from the (2) Synod were presented through the small central group. They organized a local organization throughout Lothian for "order taking with the poor" but the clerk register would not fall in with their schemes for obtaining a blank commission of justice for their friends the lairds and the Presbytery was put to some trouble to gain the consent of these barons to enter their names for this somewhat invidious task. (3) They visited the King's House and rebuked him for maladministration of Justice compelling the King to confess that he (4) himself could not command the obedience of inferior magistrates

The Crown was weak and in need of all support. The Bothwell raid of 27th December 1591 threw the King into the Kirk alliance which resulted in the statutory establishment of 1592, but the Kirk for subtle reasons was slow to censure their quondam ally Bothwell whose personal influence with the populace was equal if not superior to that awe or terrorism exercised by the ministers upon the "mean". The entire battle was fought out by the Presbytery of Edinburgh as the practically permanent commission of the Kirk. Their plan was probably to keep him as a counterpoise against the Papist Earls although he had been implicated in the affair of the Brig of Dee with them.

On 4th January James sent to the Presbytery (5) a request for the excommunication of those concerned in the Raid of 27th December. If the King's execution was as weak as he admitted it was, and if the authority of Parliament was as little respected it seems as if he were attempting to use the moral weapon of church censure to bring his enemies to justice. The Presbytery while agreeing that the crime deserved excommunication insisted that Civil Process i.e. for treason be led "against so many as shall desire the Presbytery to excommunicate and this done the list was brought to the Presbytery but nevertheless the sentence was delayed; when Moray however an suspected ally of Bothwell was murdered the Presbytery (6) proceeded most actively to urge the excommunication of his murderer by summary process. The King had some reason to question this power of summary excommunication which could so discriminate for persons and causes.

(1) Edin. Recs. 21 Sept. 1591

(2) 19th Oct. 1591

(3) ibid. Nov. 1st. 1591

(4) ibid. 14th Dec. C.V. p. 140

(5) Edin. Recs.; SP. II. p. 417; 11th Jan. 1592; 18th Jan.

(6) of their letter to the Presbytery of Dunfermline 7th March to excommunicate Huntly. see. C.V. p. 148

The Presbytery was anxious that the King should not lack their advice on any point, and Bothwell realized their power both as propagandists and as intercessors with the King when he directed to them his long letter of explanation accusing the Chancellor of tenfold duplicity.(1)

The efforts of the Presbytery to have the Assembly coincident with Parliament or Convention of Estates are dealt with elsewhere. The fact that the brethren of Edinburgh went to ask the King "what brethren are written for" may only concern the matter of sermons before the Parliament, but it may be that they expected that some ministers would be asked for their advice on the precedent of the attendance of the three ecclesiastics in the convention of June 1590 (2) That this is more probable is indicated by the question "proponit be a brother" The King's Majestie sending for a brother in the ministrie to haif his advyss in ony mater quhiddir this brother sa being sent for aucht to gang and obey his Majesties desire! The Presbytery decided that he ought to go.(3)

On May 9th once more hearing rumours of Parliament they sent to the King for certain information in order that the Assembly might be written for to meet at the same time. When it was definitely stated by the King that the Parliament was to be on 24th May the Presbytery sent out letters for convening the "brether" two days before. Once this had been arranged the three ministers who had had commission from the last Assembly for conference on the Articles of the Kirk were delegated "to travell with the King's Majestie that in this next parliament ordour may be takin for remeid of the enormities within the contrey"(4) The Presbytery definitely therefore prepared the ground before either Parliament or Assembly began their formal sessions.

(5) In the Parliament of May 1592 the smaller barons had their full quota on the articles. Was it their presence in Parliament which prevented their nomination as commissioners in the the Edinburgh contingent. In the two days at their disposal the Kirk had a great deal of business to prepare whether the lairds attended or not. With Bruce as Moderator the Assembly settled down at once to the consideration of the weightiest business particularly the articles to be suited at the Parliament. These articles were obviously the essential cause of the anxiety to coincide with the Parliament. The programme was simple but comprehensive.(1) The abolition of the Black Acts

(1) Calderwood. V. p. 140; see MS. for the numerous deputations to the King. e.g. 14th March. 1591/92

(2) 4th April. Forsamekle as the presbytrie understands that there is a Convention of Estates to be in Edr. the xx day of this instant... two ministers went "to speik the King's Majestie to understand quhat brether of the ministrie ar writtin for"

(3) ibid. 14th March (4) 9th May.

(5) The Edinburgh contingent consisted of 7 ministers

and ratification of Kirk Discipline.(11)The repeal of the Act of Annexation and the full restitution of the Kirk patrimony.(1)(iii)That no abbots priors prelates of pre: tended title vote in the name of the Kirk either in Parliament Council or other Convention. But how the ecclesiastical vote was to be replaced was doubtful, and each minister was appointed to consider the matter carefully whether a minister could lawfully succeed to vote and place in Parliament. It seems to be indicated therefore that this was the question which had been agitating in the Edinburgh Presbytery and that the King had already some scheme formulated as to direct summons to brethren to give advice when called upon. That the Edinburgh group had largely prepared the business before hand seems clear. Two of them were upon the committee of four to draw up these articles in Parliamentary form(2) and the harangue upon the general civil defects of the government in the lack of justice and decay of religion seems to correspond to those "enormities" which the Edinburgh Presbytery had represented to the King.

These articles were apparently presented to the King alone or in Privy Council for the Lords Articles were not appointed until the 29th. The precise numbers of the Commission to attend upon the King and Parliament are not known but it seems they were all ministers and the lack of any mention of lairds seems to imply that the other Estates were similarly holding their preparatory meetings and that in this instance the Assembly was simply one of the Estates and not a representative Counter Parliament (3)

Although no Kirk Conference was ever conducted without a great deal of ranting the results in this case seem to have been amicable and it was settled before even the Articles had been appointed(4) that the Black Acts should be repealed and a place granted for the Kirk in Parliament(5) Yet the composition of the Articles shows a reversion to the Titular Clerical Estate, in spite of the Kirk article. Probably further conferences took place with the Lords Articles by these selected ministers for the Assembly continued its sessions until the final meeting of the Parliament for the ratification of the Articles for on June 5th after the Acts had been passed they met to discuss an amendment to be raised at the next Parliament or Convention.(6) or commission of Parlia

- (1) The lairds did not want to give up their spoil either to the great Lords of Erection or to the Kirk which was to use the whole of the Kirk patrimony for itself education and poor
- (2) Pont Lindsay Buchanan James Melville. The Edinburgh Presbytery in this preparation of business resembled very closely the Privy Council itself.
- (3) 5 ministers for the general exhortation and the others who had the presentation of the formal articles. but Andrew Melville was also there. (C.V.p. 159)
- (4) This seems to be an admission that the Council was equivalent to the Articles. (5) Agreed 24th 25th 26th May
- (5) B.U.K.p. 790 The 23rd Session. The point was the tacks set by a deposed minister. see A.P.S. III. p. 542 c. 9

The Acts of this Parliament formed the ratification of the whole system of Presbytery, although as Matheson points out it was by no means a complete surrender. (1) Thus the King retained the right of fixing the date of Assembly and only if both King and Commissioners were absent could the Kirk decide for itself. The Acts of 1584 however were repealed in general terms, but the main point for which the Kirk had agitated the statutory recognition of the Presbyterian organization had been accomplished although "in the most wary terms that could be devised" (2)

On the question of Annexation and Erections however all that could be obtained was that no further ratifications of such gifts should be sanctioned. (3). And on the general grievance as to the purification of Scotland from idolatry and blood, injustice etc the Kirk articles received considerable response. (i) Jesuits and traffickers ~~to~~ be pursued for treason (4) (ii) Crime was dealt with in the matter of marriage of adulterers and assault and slaughter (5). (iii) On the point of Sabbath breaking all markets on that day were prohibited and the pre reformation acts put to execution. Such towns as had a statutory Sabbath market were ordained to choose another day (5a)

But the great problem of stipend was as pressing as ever. In the 27th Act it was stated that although by an arrangement of February 1587-88 it had been agreed that each minister should have a local stipend out of the thirds teinds and other duties of his parish, the majority of these funds had been removed by the new erections and gifts, "sua that without the goodwill of the present possessours of the teinds kirk rents and temporall lands it will be hard and difficult to modifye the saidis local stipendis" and accordingly a commission consisting of Privy Councillors Lairds and Ministers was set up to consider the whole aspects. Their report was to be made to the Council and a Convention called to ratify their conclusions (6)

As for the poor and vagabonds all the previous acts were to be put into execution and the Kirk interest was provided for in that if obvious negligence existed by civil execution the Kirk Session received power to appoint 2 or 3 justices to fulfil the function. Thus the Session was set up as a kind of supervisor of the local civil powers. (7)

(1) Matheson. II. p. 250 (2) SP. II. p. 421 says that it was part of a scheme. The Kirk suspected Maitland of concern in the affair of Donibristle, and the Chancellor placated the ministry lest they allied with Bothwell.

(3) Cap. 13 (4) Cap. 14 (5) Cap. 11, cap. 12 (5a) c. 17

(6) Blantyre, Montrose, Edward Bruce, Cockburn of Ormiston, Colluthie Wedderburn and other Officers of State. Ministers Bruce Lindsay Galloway, Nicholson, Duncanson Blackburn J. Melville Scharp. (Cap. 27)

(7) cap. 69 The Privy Council on 8th June reinforced these enactments by granting blank commissions for general affairs of the Kirk to be filled in at Kirk's discretion (P.C.R. IV. p. 753)

The tactlessness of the ministry is amazing. At this very time in conference they raised the question whether the King could be excommunicated, and it is little wonder that the Articles were urged by James himself to pass stringent acts for the suppression of this excessive liberty of speech. (1) The genuine turbulence of the individual ministers and their interference in sectional politics was perpetually vitiating a reasoned policy organized by the whole kirk. (2)

The Presbytery of Edinburgh continued its general policy of interference with King Court and civil policy. On June 27th they refused baptism to the children of Edward Bruce Commendator of Kinloss because of statements he had made in Parliament "that the Kirk suittit tumultuouslie" and because he flatlie opponit himself to the thingis the Kirk suittit" (3) a method of controlling Parliamentary vote which was as unscrupulous as any used by the King.

The King attempted when possible to use the pulpit propaganda for general dissemination of news and against the rebels particularly Bothwell and the quondam ally of the Kirk John Colville, and the Presbytery records show that the central group still exercised enormous powers of discretion in dealing with the authority on these points. The Commission to consider the question of stipend since it contained a majority of the Edinburgh brethren virtually consulted the Presbytery on all problems (4). And when the rumours and mysterious letters of information as to Papist plots began to agitate public opinion the Presbytery anticipated the programme of the later organization and appointed on 24th October a committee of ministers to meet regularly once a week or as they found occasion to consult upon the national dangers. (5)

But the aggressively anti-Spanish policy of the Kirk and particularly the Presbytery was by no means popular with the merchants, and the conservatism of the crafts was offended by the attempt of the Town Council at the instigation of the Presbytery to alter the Monday market to Wednesday. (6) The whole town was averse to the added expense incident upon the division of the bounds into 8 parishes.

The convention of the Kirk which sat from Nov. 15th to 20th would therefore seem to be a meeting like its model the "Convention of the Wacriff" summoned at the instigation of the Edinburgh Presbytery. Melville describes it as composed of a number of brethren conveyed from divers partis of the cuntry to foresee and prevent the dangers imminent to the

(1) Nothing however was done in the Parliament. C.V. p. 161

(2) cf Bruce's sermons which presumed that the Raid of Falkland was for the purpose of avenging the murder of Moray. Sp. II. 420 Moysie. 94, C.V. p. 168

(3) Pres. Recs. June 27, Aug. 15. He submitted Nov. 14. cf. Rait. p. 175

(4) e.g. Aug. 1st Pres. Recs.

(5) Recs. 24th Oct. They were Bruce, Lindsay Pont, Craig, Davidson Rollock Balcanquhall Duncanson. '59'

(6) Recs. 24th Oct. 1592. cf 13th April, the persons using traffic to Spain. C.V. p. 177. The baxters were also offended by prohibition of Sunday baking. Recs. 24th Oct. 1592

Religion and professors thereof". It was therefore very like those conventions which the Presbytery was accustomed to summon for extraordinary business in conference with the leaders from other Presbyteries adjacent. This convention which took up such a remarkable attitude to civil affairs could only have contained members of the Central Lowland Presbyteries, and this bore a close analogy to the augmented Councils and Conventions which James used so frequently instead of Parliaments. No detailed personnel is given and it is unlikely that any lay element was present.⁽¹⁾

Their business was however on a national basis. They examined statistics from the various districts and embodied their grievances in their causes for a General Fast which discussed the decay of religion and its relation to the "Counter Reformation; the scarcity of ministers and the slackness of the civil magistrate; the notorious papistry of some of the nobility; and the general lawlessness of the whole country.

Although scarcely a representative body they made claims such as in the Parliament were unknown. They demanded from the King a redress of these grievances, the dismissal of (2) known Papists from Court and Council, and that efforts be made to reconcile feuds among the nobility that a united front might be presented against any foreign invader. Although the King was himself involved in the "plots" and was not therefore eager in the cause of this extraordinary convention he could agree to a plan of general reconciliation. But the Kirkmen showed considerable administrative capacity for national defence. A Convention of Estates could have done little more. Each Presbytery was to urge the well affected gentlemen to be upon their guard and in readiness upon advertisement for defence of religion and resisting the enemy.

An elaborate system of intelligence was set up for collecting news from all parts of the country, James

(3) Carmichael minister of Haddington () to be kept informed of Papist designs at home and abroad by merchants and other resort: ing to Edinburgh, Balcanquhall to gather all details from the localities, both of them reporting to a Central Committee of 8 Edinburgh ministers who with two alterations were simply those whom the Presbytery itself had already appointed for the same purpose. This Central Committee chosen from the Edinburgh Presbytery was therefore a particular group exercising the General Functions of Edinburgh's permanent commission, for this particular crisis and purpose.

(1) James Melville. p. 299

(2) They particularized e.g. Hume.

(3) The appointment of Carmichael to such an important duty seems to show that the news of Papist Plots had first been divulged through him for George Ker was already being processed in the Haddington Presbytery although the real "discovery" did not take place till the following year (Hadd. Recs. October 1592)

These powers were comprehensive and definitely showed that whether representative of a growing public and national opinion or not, the ministers with or without the lay element of the Assembly could and did organize a detailed Anti-Spanish system. Carmichael as the agent of this committee had power to negotiate with King Council Convention of Estates Burghs Barons or others and formal minutes of these negotiations were to be kept for information of the General body of the Assembly.(1)

The expenses of this committee and its agent were to be met by private contribution from the "well affected of all Estates" - a scheme which was practically the same as that used by the Civil Authority for "voluntary contributions".

Although it seems probable that the Burghs were not active in the support of schemes which would destroy their valuable Spanish trade, this convention of the ministry must have been giving expression to a nationalism which was forbidden to Parliament and Convention of Estates by their constitution. That the ministry probably created this Protestant fervour against the Spaniard by their propaganda from the pulpit is true, but that their power was real is evidenced by the reluctant consent of James to their proposals. i.e. to set up reliable commissions to try Jesuits and to prepare the country for possible attack(2) The most important constitutional demand according to Calderwood was also agreed to, which amounted to a claim to interfere in the personnel of the Council in time of crisis. i.e. that a number of wisest noblemen and barons and the best affected be joined to the Council to winter in Edinburgh until they were satisfied that the dangers against religion were frustrated.(3)

The position was so strong that the meeting categorically demanded formal ratification of the decisions of the Commission for Stipends by Council Chekker and Session ~~in case there was no~~ convention of a Parliament or representative Convention of Estates.(4)

These demands of the ministers led by the Melvilles and the Edinburgh group were advancing towards an ideal of Constitutional Monarchy, but this tendency was outside Parliament which ought to have been the national "limiting" body. With this opposition merged within the constitution of Parliament the Scottish "Estates" would certainly have ceased to be the mere court of registration that it was.

While fixing an Assembly for 9th January the convention

- (1) He also prepared a resume of all negotiations between Kirk and Council and Estates
- (2) The blank commission prepared by Council was apparently filled up.
- (3) C.V.p. 1185. This was probably a reflection upon the Privy Council as reorganized in the preceding Parliament, which was to be composed of 14 Officers of State 40 Lords 9 Barons, and 2 representatives of the clergy and Burghs had the right of entry
- (4) They expected a Parliament on the 10th January 1593

left to the Presbytery of Edinburgh its wonted power to alter the date "that the brethrem make no waste travel" an admission that their business was with Parliament as the supreme authority—a theory of the constitution which is significant.

The return of Arran apparently concentrated the attack of the Central Council. Calderwood's account of the stormy interview between the "Man of Sin" and the Presbytery of Edinburgh contains nothing to equal the indictment that that Body made against him in reply to his "lang harang". They were convinced "that he was one of the warst instruments that ewer was bred in Scotland and that he hes done greitest wrack to the Kirk hurt to the contrey and dishonour to his prince and wrangs to many gude subiects of the land alsweill noblemen as utheris" (1) That their rejection of his offers of satisfaction was on purely political grounds is borne out by the fact that they persisted in associating him in sermons and elsewhere with the whole of the AntiKirk Party including such local opponents as "the traffickers with Spain and the defenders of the Monday Market" (2)

The Central Council therefore had all this to consider. It is noteworthy that although appointed by a body which claimed to be "brether from all parts of the country" the actual duty of arranging the special meetings of this Council lay eventually with the Presbytery itself of whose number the whole Council were members. (3)

- The national part played by the Kirk in the interception (4) of the Spanish Letters is well known. The documents themselves were opened in Council in the presence of the ministry who were probably the members of this Central Council. The King summoned in haste appointed a special Convention of the Nobility and Barons on 10th January, the very date upon which the Assembly had been led to expect a Parliament. The meeting of the Kirk which took place on the 9th may therefore have been the General Assembly which was to have preceded such a Parliament. What really seems to have taken place was that a Convention of the ministry prepared, from their inside information which had been collected by the Central Council, the propositions which were to be the programme of the Nobility and Barons when they met on the following day. The position however takes on a different aspect by the presence of the "multitude" in the Great Kirk which was to present these proposals. James Melville may be right when he claims this as

(1) Pres. Recs. 5th December 1592

(2) C.V. p. 188

(3) Recs. 5th December.

(4) of the warlike attitude of the minister of Paisley

a General Assembly(1) Spottiswoode however does not regard it as a fully representative body. "The ministers of Edinburgh esteeming it their duty to make the churches of the country foresein of the conspiracy that was detected gave notice thereof by their letters to such as were most nigh at hand desiring them to meet at Edinburgh the 8th of January for giving their advice touching these dangers"(2) Although not entered in the Book of the Kirk as an Assembly it certainly took over most of the functions of an Assembly and also the Civil functions of the King's Convention of Nobility or Estates as the ministers themselves suggested in their propositions.(3). The truth was that the same lay element which would normally have come to an Assembly attended the Convention of the ministry and as a kind of civil ecclesiastical meeting laid down for the Royal execution a scheme of campaign prepared beforehand by the Edinburgh group or Central Council. The delegation was obviously on a representative system, 4 lairds 3 burgesses and 2 ministers and the articles they presented were actuated by the desire to control a Council which was suspect of lenity to Papists(4) But the experiment of an unauthorized assembly in which the laird class were in a large majority was not approved by the King whose policy was thus anticipated and the decisions of his Convention prejudiced. The King's "day" of Convention seems to have been either the 10th or more probably the 15th. The Kirk thus met Convention by Counter Convention and the King was eventually forced to accept the situation although complete surrender was obviated by the suggestion that the nobility instead of sitting as a Kirk Convention should simply sit as a preparatory meeting arranging business for the 15th. On this date the meeting was considerably augmented by the rest of the members of Convention, but their decisions were practically those arrived at by the pseudo ecclesiastical meeting. i.e. execution against all Papists, trial of the conspirators by a representative assise containing in addition to the Council delegates 1 Lord 1 Laird 1 Burgess and 1 minister. Preparations were made for a general muster for the expected invasion and it seems clear that its effectiveness was ensured by the preceding energies of the ministry and the Convention of November. The General offer of the ecclesiastical baronial convention to defend the King in proper person was altered in the approved Convention to a Guard of 100 foot and 100 horse to be entertained at the baronial expense on condition of an expedition being directed against the Northern Papists. The ministers continued interest in this guard resulted in the Presbytery of Glasgow in an assertion of "the mere civil" nature of the proposal. The position seems to be that the King probably intending to summon the usual type of Convention of his nominees of nobles and barons had his hand forced by the national and overwhelming character of the laird class who by private warning attended a

(1) J.M.p.307

(2) Sp. II. p.427

(3) "That the King be moved to accept of this their hastie meeting and proceed instantlie without delay as if the day appointed by himself that is Monday next were come". C.V.p.215

(4) It was more than a delegation. It was a mass representation of more than 1000.

an extraordinary meeting of the ministers. But the lay element was not confined to the nobility. The burgesses took an equal share in proceedings of both ecclesiastical and civil conventions, but it is significant that the records of the meetings stress the presence of the lairds and barons whom they continued to regard as the fighting force which had made the Reformation. While Calderwood states that it was the Barons who gave the contribution for the Guard of Horse and Foot, it seems clear that they shared the responsibility with the Burghs. Such of the Burghs as had been present at these extraordinary meetings whether they are to be defined as Assemblies or Conventions, met afterwards in a Convention of Royal Burghs on Jan 23-26 and voted funds for the support of the proportion of Foot for the King's support, but this only on condition of the Barons raising 100 Horse. (1)

If ministry Lords Barons Burgesses were all present at the Kirk Convention there could have been little difference in the matter of personnel from a formal General Assembly unless as Spottiswood suggests it was a particular Convention of the Central Lowland shires. But these in point of fact formed the large majority of the formal Assembly itself for no limit was set as yet upon the number of representatives. The sole difference would seem to be that summons was not formal and that probably the laymen present had no commission from a church court. As an expression of national feeling however the Convention had been highly successful although its constitutional right according to XVth Century view was unwarranted.

It was more than a Kirk Convention although the ministry certainly prepared the formal demands. It was closer to a National Parliament than almost any Convention hitherto called by James and more successful in getting an organized programme accepted. That James probably realized this is suggested by the procedure on 17th January in the appointment of a commission to consider remedies for treason bloodshed crimes against religion and generally justice in criminal causes, and on this commission Bruce had a place. At the same time the ever pressing problem of the Royal debts and the whole finance of the country was entrusted for investigation to a commission of 4 lairds and 3 burgesses, who thus obtained an opportunity of criticizing the administration of the Higher nobility. (2)

Thus a Convention which had undoubtedly begun as a Kirk Assembly whether official or not, obtained the whole function of Parliament, as a Court of Law, in foreign and domestic affairs and in finance. The Kirk had definitely shown that its organization could cope with a national crisis with which the Scottish Parliament was incompetent to deal unless vital changes took place in its constitution.

(1) R.C.B.I. p. 392. The decision may have been influenced by the Presbytery of Edinburgh. 23rd Jan. 1592-3 MS.

(2) Calderwood. V. p. 221

After the successful conclusion of the Convention the Edinburgh Presbytery having been so instrumental in obtaining it, immediately sent out letters to every Presbytery of the realm "desyring thame to travell with the noblemen and gentlemen and barounis within ther boundis for obteneing of thame a volunt ar contributioun to lift a garde to his Majestie for his assistance in prosecuting this purpos intended aganes the traffiquers with Spain.(1) Again on 30th January every brother was instructed to urge the gentlemen of ~~his~~ parish to contribute ~~reporting~~ the result on the 6th of February. But the Barons were loth to part with their money for at the meeting on February 6th the Presbytery at the desire of the King wrote to all the Presbyteries of Bothianasking that all the barons and gentlemen be present on a certain date to consider the question.(2) It seems clear that although the burghs were to collect their own contribution the baronial share was to be collected by the Kirk. Haddington Presbytery definitely called "the contribution crawit be the Kirk fre the barrounis and gentillmen for interteining of his Majestie's '3) gairde" and the minister of the parish was to collect the proceeds. The gentlemen of Glasgow resented the interference of the Kirk and refused to send any money in respect that "the actioun is meir civile and thairfoir thai thocht it nocht pertinent to the ministrie nor thair calling" although as feudal barons they were willing to "bestowe thair lyfe and all that thai had being chargit be his Majestie in that gud cause"(4). Fife was particularly remiss in this respect(5). In face of this reluctance to pay it seems clear that the body which offered the voluntary contribution had done so without considering the point of view of the whole baronial class. Therefore the barons who made the Convention of January the power that it undoubtedly was, represented a party and that a large one but not the universal Estate of the Barons.

- The escape of Angus and the impunity of Huntly lent colour to the "libel" attributed to Bothwell that the Northern expedition which began February 27th was laxly executed. The King was back in Edinburgh by March 13th urging the payment of the voluntary contribution. Response had been so slow that official action had to be taken resulting in the Act of Privy Council which soon made it apparent that it was to become a compulsory tax according to '5) a tax roll. The ministers and Moderators of Presbyteries who were collectors of the lairds quota thus became royal agents or tax gatherers. In his need for money James was prepared to use any medium. The Presbytery as a unit of taxation was useful again in
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- (1) Edin. Pres. MS. 23rd Jan. 1592-93 (2) ibid. 30th Jan.; C.V. p. 222
 (3) Haddington. Pres. MS. Recs. 31st Jan. 1592-3. Any refusals were to be reported to the Presbytery. The moderator Carmichael was the Collector for the whole Presbytery
 (5) See MS. Recs. Pres. of St. Andrews. April 12 1593
 (4) Maitland Miscellany. I. Register of Glasgow. April 3, 10, 27, The letters sent by the Presbytery of Edinburgh were discussed first in Synod and then in Presbytery
 (6) P.C.R.V. p. 55.

the next century. (Rait p.496) The preamble of the Act of Council stated the position. "A guid numer of noblemen barronis gentil: men and inhabitantis of burrowis convening and cuming to his Majesties presens at Halyruidhous be thameselffis and divers of the ministers in thair names willinglie and frankly offerit to support his Hienes with the expenssis to be bestowit upone the interteinement of a ressonable force of horsmen and fuitman for his gaird...sa sone as his Hienes could tak the feildis to that effect". The payment of the proceeds of the collection by ministers of every Presbytery had been daily expected and some of the Guard raised and employed in the North. The service was to be longer than originally expected and accordingly letters were sent out charging moderators and ministers to collect and deliver the subscription from all noblemen barons and landed men within their bounds who had not already paid "in that quantitie and proportioun as utheris of lyk qualitie hes payit of befoir". The barons were to pay within 6 days under penalty of rebellion. It was really only on receipt of this charge that St. Andrews bestirred itself. Four leading lairds who had been nominated collectors by the Presbytery were ordained to bring in the lists (12th April) but from subsequent entries it is plain that the matter still lingered on. The General Assembly of April fixed the final date at 31st May (1) but the Burghs were equally remiss in their contribution, and the Convention of Royal Burghs had to fix a time limit likewise for the 10th July (2)

Thus the Kirk's organization was just liable to be disregarded in the matter of finance as was the Civil Administration. The Presbytery of Edinburgh which had been originally responsible for the scheme, still was the driving force in ecclesiastical as well as national affairs. (3)

The General Assembly to which they were responsible for their General Commission met in Dundee on April 24th. The Records of Presbytery are Blank for a short period and give no indication as to how it was summoned, but the list of Assessors shows that the Edinburgh and Fife groups as usual directed and originated the Kirk policy. (4)

Their close connection with civil conventions induced them to send a delegation of 4 ministers and 6 laymen (3 lairds and three burgesses) all of the Edinburgh and Fife group to present articles to a Convention of Nobility which the King had appointed upon the 27th April. The proposals which

(1) B.U.K. p.810

(2) R.C.B.I. p.407

(3) cf. the trial of Northern Papists was remitted by the Council to the Session of Edinburgh but that body almost always invited the co-operation of its superior court. e.g. Recs. April 10th

(4) B.U.K. p.795. Summons was probably through the Edinburgh Presbytery for a date fixed by the last Assembly which the intervening conventions had not altered. The King had therefore not had an opportunity of using the powers granted him by the Golden Act although the form of summons had been entered in the Privy Council Register.

this commission carried were on the old score of the punishment of Papists and due execution of the acts forbidding them to hold office. (1) with a request to make the Acts of Parliament more stringent against their resettlers. (2). A curious demand was made, for the establishment of which they desired an act of Council as a temporary expedient until a Parliament met, that all those whom the Kirk declared to be Papists though not actually excommunicated should be debarred from all office access to the King and benefit of laws, and that horning and civil pains should follow upon this mere declaration as if it had the full force of excommunication. This can only mean that the Kirk was protecting itself against the interminable delays of formal process and looked to the State to put into execution the Civil Law to bring the offender to subjection without bringing into disrepute the Kirk's final weapon. (3)

But the King and Privy Council had realized too well the independent if not democratic tendency of the formally established Kirk, and its open claims to control not only administration and foreign policy but also the actual personnel of the King's Council. Its organization was so closely parallel to Parliamentary institutions that at each point it had a check upon autocratic action, on the part of the prerogative. Thus for the Privy Council it had a counter-Council in the Presbytery of Edinburgh or its inner ring nominated as a Central Executive Council by a larger Convention. An augmented Privy Council could be met with a Convention of the leaders of the adjacent Presbyteries round the Edinburgh nucleus. A Convention of Estates could be countered by an Extraordinary Assembly called upon short notice by the Presbytery of Edinburgh to the ministry who advertised as many of their lay supporters as they thought fit. And a full Parliament was almost always advised and held in check by a formal Assembly and by the joint personnel of Parliament and Assembly the Kirk might obtain an influence in the Committee of the Articles which must eventually affect the whole procedure of Parliament.

The Royal Commissioner therefore in this first full Assembly since the passing of the Golden Act, reminded the Kirk of her dependence upon the Royal Summons or at least permission to convene, and the Assembly had to agree. It accordingly appointed its next meeting in the presence of the Commissioner, for the first Tuesday of May 1594, although nothing was said of those extraordinary conventions which were equally effective although not so national in their representation.

(1) Hume was still on the Council although still suspected by the Kirk.

(2) The Parliament of 1592 had prohibited process against resettlers after the Papist or excommunicate had satisfied the Kirk.

(3) B.U.K. p. 796

His aims were therefore to restrain the means by which the ministry obtained their control of public feeling. He demanded that no minister should declaim against the King and Council until he had first made a private complaint under pain of deposition. The Assembly agreed with the proviso which really left the question an open one, - except upon due warrant and sufficient cause".

The second source of power was the organized "intelligence" which centred round the Presbytery of Edinburgh. James therefore attempted to bring this under his own control. He asked that some in every Presbytery be appointed to inform the King of the activities both of the Spanish faction and the Bothwell party, "with direction also to them to inform the whole barons and honest men to give ever such faithful intelligence of the said practises as they can learne from tyme to tyme". (1)

And in particular he urged the report of such information as the Kirk obtained from its organization for examining strangers arriving by sea, which had been provided for by the Convention of the Kirk of November. (2)

In its anxiety to arrange its meetings with a Parliament or Convention the Assembly found that it had overreached itself. The Parliament was not to meet until June. (3) and the Kirk felt it essential that some articles should be "craved". The result was the appointment of a definitely representative Commission of Assembly in place of the vague and general powers of the Presbytery of Edinburgh. One or two brethren from each Presbytery within the realm were to convene "in tyme of Parliament in the place quher the same shalbe holden to consult treit resone and conclud upon sik heids articles petitionous and supplicatiouns as thay sall think meitt to be craveit and concludit be consent of Parliament". They had the full force of a formal Assembly in other words they were a fully accredited Commission of Assembly just as the Power of Parliament was similarly delegated to a Parliamentary Commission. (4)

In point of fact the Assembly was gradually building up for itself an authority in civil matters which deliberately challenged the Central Government in law, policy, and affairs affecting trade. Its methods were Parliamentary ones and its supreme penalties for disobedience were practically identical with those of the Civil Power. Thus in this very Assembly the Kirk practically prohibited any law suits between ministers in the Civil Courts, and assumed for the Kirk and the Presbytery a power of judging even in civil affairs of dispute, and from this decision of arbitrators there was to be no appeal under the penalties of contumacy. (5) In foreign policy it was so

(1) B.U.K. p. 806 (2) see. C.V. p. 185

(3) A convention of some kind took place on May 1st (P.C.R.V. 72) Calderwood says it was poorly attended (C.V. p. 249)

(4) B.U.K. p. 814

(5) ibid. p. 815

dogmatic that it placed under the ban of excommunication all merchants trading to the Spanish dominions until a national settlement was arranged to ensure protection in the matter of religion.(1) And it backed up its schemes by direct appeal to the Convention of Royal Burghs.

The Parliament postponed time and again met at last on July 10th. The Commission of the Kirk advertised of these changes by the Presbytery of Edinburgh ~~was~~ in readiness. Although the Assembly had fixed the number of representatives at one or two from each Presbytery the local elections show that this rule was not observed. St. Andrews Presbytery on June 28th 1593 elected 5 members for the purpose.(2) Haddington appointed 3 ministers as its representative "Commissioners to the Convention befor the parliament"(3) The fact that Edinburgh Presbytery made no election seems to indicate that these commissioners simply gathered round the Edinburgh nucleus in its ordinary Presbytery meeting and that the Capital Presbytery still retained its preeminence in Kirk Councils. This is borne out by the fact that throughout July there is frequent mention of the "commission of the Kirk" in the records and that they seem to have consulted the collective wisdom of the Presbytery on many points.

The Lords Articles were appointed on the 16th July but whether the Commissioners of the Kirk were present in open Parliament is doubtful. The King's assurance to them, that it was impossible to forfeit the Catholic Earls in this Parliament because most of the witnesses against them had escaped, may have (4) been made in public. It is more probable that they had a private interview with him. As they were now meeting, a band of ministers with no lay element, they closely resembled a meeting of a Particular Estate. The analogy is continued when upon the day following the appointment of the Articles they met by themselves in the Little Kirk to discuss the situation(5)

In this separate meeting it seems clear that their aims were in the first place directed towards civil affairs, and in view of the fact that their chief demand was forestalled they even doubted whether any articles ought to be submitted to the (6) Lords Articles at all. Their direct attempt to influence the King

(1) B.U.K. p. 817 see previous chapter.

(2) MS. Pres. Recs. "according to the ordinance of the last generall Assemblie apoynting everie Presbytrie to direct tua or thrie commissionaris to the Parliament ordanes and nominatis Mrs Andro Melville James Melvoll Nicol Dalgleisch James Martine (provost of the Old College) Robert Wilkie commissionaris in thair nameto adwyss reson and conclud on sick thingis as salbe thoct expedient for the weill of the Kirk"

(3) Register of Haddington Pres. MS. 27th June. James Carmichael Thomas Meghie James Gibson.

(4) C.V. p. 254

(5) See Rait. pp. 402-405

(6) C.V. p. 254

by means of a delegation of its most eloquent members shows that they realized that the ultimate decision lay not with the Articles but with the Crown. The King would seem to have revised their proposals before they were submitted to the Articles. The situation even merited a protest that nothing be done in prejudice of Kirk Liberty. At any period previously before the Kirk had had its taste of power the concessions which it did obtain would have been gratefully accepted. But the Assembly had now a political programme as an "Opposition" and was not content with mere ratification of privileges. (1) Their demand however for more stringent measures against resettlers of Papists was granted (A.P.S.IV.p.16) and a reasonable modification of the Kirk proposal to the Convention of Nobility was accepted whereby contumacy to Kirk decrees was to be pursued as rebellion (A.P.S.IV p.16 c.7).

The Laird allies of the Kirk were not present in any numbers in the Parliament, and the Burghs were probably reluctant to assist a policy which would impoverish their trade. A mass representation of the baronial element would have given the Kirk Commission a power of coercion which the ministry as a separate and unofficial estate lacked. They accordingly had to suffer the immunity of the Catholic Earls while Bothwell whose policy it was to pose as the Protestant hero was condemned and forfeited. The barons had not utilized to full advantage their position in Parliament and it was not till 1594 that they were really elective. Those who sat upon the Articles were nominated by the Crown as to a Convention, or were simply royal officials. The Kirk preferred to retain them in the Assembly as a constant threat of force against unpopular policy. (2)

The first formal and officially representative Commission of the Kirk had therefore been hardly successful. But that it continued to meet is clear both from the decrease of intercomm: unication between the Presbytery of Edinburgh and the Court and also from the number of commissions which it devolved upon that body. (3) It may be that the full Commission or a group of

- (1) They obtained (1) Abolition of Sabbath Markets. c.6, (2) Act for glebes. c.8 (3) Stipends were to be free of taxation, tacks etc, c.9, and a commission or Platt established to attempt to arrange some constant method of allocation. c.45. etc. The full proposal as to the Constant Platt was not formulated until 1596
(2) Rait. p.210. There were 41 burgesses present. A.P.S.IV.p.6-8
The titular Bishops and Abbots were still there. see. Rait. 167
(3) e.g. Edin. Pres. Recs. 24th July 1593 seems to indicate that they sat in the ordinary Presbytery meeting.

On the 21st August the Presbytery refers to the Commission as "the commissioners deput be the General Assemblie to treat and conclud materis serving for the glorie of God and the weil of the Kirk".

On the 20th July before the Acts of Parliament were concluded they were meeting as a separate estate, for they deputed to the Edinburgh Presbytery the examination of the Registers of the Presbytery of Dumfries.

them prolonged their sessions in order to watch over the situation which had arisen by the return of Bothwell and his practical capture of the King. The Presbytery was in the midst of process against the Humes his chief opponents but how far they were involved in the plot for his restoration cannot be stated. Certainly in the act of remission which Bothwell obtained 5 Edinburgh ministers acted as intermediaries. It is possible that it was this Commission of the Kirk which was responsible for these negotiations (C.V.p. 258) and that it was to them that the King appealed against the pretensions of "the Protestant Champion" (C.V. 259). The position was a peculiar one, and it looks very much as if the Commission of the Kirk had transferred their support to Bothwell the King's rebel when it was seen that the Parliament was not prepared to follow out Kirk suggestions. It is also probable that the Commission was in attendance upon that Convention of Estates which met in Stirling in September. Certainly an Act against Beggars was reinforced in which the Kirk was interested. (1)

When the Humes regained position at Court the Presbytery of Edinburgh redoubled their efforts against him, and were only dissuaded from passing sentence of excommunication against Lord Hume by a promise made by the barons and gentlemen of the name of Home that they would urge their chief to conference. (2) The feudal element entered thus even into Kirk process. His final agreement with the Presbytery placed limitations upon his public policy whereby he promised to bring in no measures for return of Excommunicates. (3)

The extraordinary meetings of the Kirk in the latter part of the year immediately the disgrace of Bothwell was known seem to infer a close connection with his faction. The Conventions which were organized in this instance by the Synod of Fife illustrate once again the success of the Kirk Courts in obtaining representative meetings of ministers barons and burghs without formal sanction of the central civil authority. These Conventions were virtually Assemblies and exercised the full powers of such. The sole difference in their organization was that they did not require the Royal permission to assemble since they did not call themselves formal "General Assemblies of the Kirk".

The organization for this extraordinary Assembly shows several points of interest, and in particular that the Kirk had accepted within its schemes of representation the organization for returning the civil commissioners of the shires.

(1) A.P.S. IV. p. 42

(2) Pres. Edin. Recs. 18th September 1593. The Synod of Fife however in its famous meeting had no hesitation in passing summary sentence upon him 25th September

(3) 27th October. Edin. MS. Pres. Recs.

The programme of the Synod was to assemble a General Convention of the Kirk with the Synod as the electoral unit. The principle was to direct commissioners of gentlemen burghs and ministers from every province to dictate a policy to the King which involved the whole domestic situation and the questions of foreign policy and trade. Although many barons were present and presumably burgess elders, when it came to the point of election of commissioners to this General Convention, only (1) ministers were elected in the Synod itself. The Barons there were the nominees of the ministers, one from each parish but the Kirk desired overwhelming numbers. The obvious solution lay in the Head Court of the Shire which was about to meet at Cupar on the 2nd of October. This head Court may possibly have been about to elect its Civil Commissioners for the Shire as provided by the act of 1587. But without due warning the barons might be slack in attending the Head Court also, therefore each minister was appointed to urge the local magnates of his parish to attend and to make doubly sure the official "Commissioners of the Shire" the Lairds of Cambo and Balcomie (whose year of office would expire at that Court) were informed of the Synod's intention so that they might give warning of a "frequent". The representatives of the barons to what was to be a Kirk Convention were therefore to be elected in the civil Head Court of the Shire. And to see that this was done the whole of the ministry of the Presbytery of Cupar with three of the Synod were appointed to attend the shire convention. These dealings are significant. It seems clear that this became practically the normal procedure and explains why the Synod retained its position during this period as the electoral unit, in spite of the increased power of the Presbytery.

To obtain the attendance of the Burghs was not so difficult. Each minister was to be given a letter of information which he was to present to the burgh of which he was minister. By the "Burgh" the local Town Council must be implied for as we know for both civil and ecclesiastical conventions it bore the onus both of expense and election of commissioners.

But this only dealt with the organization for Fife, while a national demonstration was aimed at. The Synod accordingly prepared a system of information. Delegates were sent to the Provinces of Lothian, Angus, Stirling and the Merse with a full account of all the Fife procedure. Thus a "national" meeting for the Kirk meant simply an appeal to the Lowland shires. With reason at a later date might the Northern ministers complain of the small share they got in Kirk Government while the Fife and Lothian ministry controlled these Conventions which virtually acted the part of a General Assembly. (2)

- (1) The Synod sent six ministers to the Extraordinary Convention. They were Andrew Melville, Ferguson (Dunfermline) Lamb Buchanan Dalgleish James Melville.
- (2) There is evidence of the interchange of communications between Lothian Fife and Angus in the St. Andrews Presbytery Records Oct. 11 1593. Their replies came to St. Andrews which then informed the rest of the Presbyteries of the Province. See also the good organization of Glasgow Maitland Misc. I p. 63 11th Oct. 1593

With such an organization combining with the ecclesiastical system the latest achievement in Parliamentary representative methods such a convention whether sectional or national was a serious challenge to the authority of the Parliament and Conventions of Estates which did not meet without express Royal Warrant. The combination of ministers with those classes which in England formed the House of Commons suggests that the defects of the uni-cameral system were realized. How would the history of Parliament have developed if these had normally met in this manner and if the Moderator of the Assembly had been accepted as the "Common Speaker"? (1)

The King countered the Convention by going to Jedburgh and although the meeting would seem to have been as representative as was expected nothing was gained. Their power lay in the immediate threat of force which of course was rendered null by the delegation of their petitions to a committee (2). James estimated the constitutional importance of their meeting. Conventions of Estates were summoned by him and by his nomination. By countenancing such an extraordinary meeting he might give precedent for elective Conventions which would counteract the tendency which he had been cultivating, for making the Convention a substitute for the Council. (3) At his conventions he claimed "such only as he called should be welcome others not". (4) Such a nominated Convention was to be that which he summoned to be at Linlithgow on October 29th, for the assize to try the Earls. (5)

Accordingly a Kirk Counter convention was also appointed to be at Edinburgh. Apparently the Convention of October 19th which had been unsuccessful in its appeal to the King left a group of ministers along with the Presbytery of Edinburgh to keep trace of the variations in policy and these advertised the Presbyteries who in turn organized the barons and gentlemen who came "bodin in fear of warre". Whether it was the old executive council of November 1592 is not clear but the organization must have been the same.

That the zealots intended war on the model of the "Congregation" is clear for ministers like Davidson and lairds like Merchiston were chagrined to find that perfectly constitutional methods were agreed upon by the majority, by presentation of Articles by a representative commission of ministers barons and burgesses. The idea of a "Common Speaker" of the Commons is again present in the appointment of James Melville as "specheman".

(1) Rait. p. 195, 518-20

(2) 2 ministers 2 Lairds. 3 burgesses

(3) Rait. p. 149

(4) C.V. p. 271

(5) A MS in the Cottonian Collection. Cal. D. II. p. 187b. gives a list of the resolutions of a meeting on Oct. 6th. This must be a mistake for the 10th for its petitions are the same. Their advice to his Majesty was for delay of trial of the Lords until all the professors should be ripely advised since all the professors intend to be their accusers; to ward them in Edin. Dundee and Stirling until trial; that they should receive no benefit of law until they satisfy the Kirk for their excommunication. This reasoning seems to be a vicious circle

The King's Convention at Linlithgow contained only 6 lairds and 9 burghs, whereas the popularly elected meeting was very well attended, i.e. those whom the King had not summoned. It was this a meeting of the united opposition. The Convention of Royal Burghs was also holding its sessions in Edinburgh, and probably they swelled the multitude. That the meeting was a mass representation rather than on an electoral basis is clear from the St. Andrews Records where on 1st November no meeting could be held "the greatest part of the brethren being in Edinburgh at the Conventioun". (1)

The struggle was more than a religious one. It was the constitutional problem of whether the King could direct Government and policy by his own will and nominated conventions or whether the voice of the "commons" as represented by the burghs and barons should have influence in the councils of state. That there was this constitutional feeling is hinted at in the behaviour of David Lindsay the "Moderate" Moderator of the more popular meeting.

Although the zealots complained of the "driving of time" the committee to consider the petitions of the Catholic Earls showed an attempt at representation of all Estates which was a tribute to the constitutional aims of the Opposition. To the 6 Lords 6 Lairds 6 Burgesses appointed there were 6 ministers added who were to attend when called upon or when they had any thing to propose. (2)

The first meeting of this Committee for trial was appointed for the 12th November. A Convention of the Opposition was therefore expected, but the King sent forth a proclamation that none should presume to make convocation of the lieges on that day and forbidding any to come to Edinburgh save those upon the commission or those that should be called by him. (3)

That this order was disregarded by the Kirk is obvious. As usual the Presbyteries organized their preparations on a representative basis, although there was some confusion as to where the trial or convention of the committee was to be held. Thus Haddington on 7th November 1593 recorded, "Forsamikle as it was thocht gud be the commissioners of the Kirk (4) laitylly convenit at Edr. that ther suld be from ewerie presbytrie sume be directit bothe of the barrantis and ministrie to the convent: :ioun of pairth the presbytrie nominatis the Lairdis of Boltoun and elfinstoun younger and of the ministrie James Gibsone" (5)

(1) St. A. MS. Pres. Recs. Oct. 25th and Nov. 1st.

(2) A. P. S. IV. p. 44; C. V. p. 277

(3) P. C. R. IV. p. 105. The idea was that it was still the King's High Court of Justice.

(4) They may have considered all these conventions merely as different sessions of the representative commission of the Kirk which had been appointed in the last Dundee Assembly and had made the unsuccessful petitions to the June Parliament

(5) Hadd. MS. Pres. Recs. Nov. 7th 1593. The term "barrantis" is a peculiar form for baron. It may be a survival of the term "baron banrent". See Rait. p. 178-9

The mention of Perth is due to confusion. The Papist Earls were in Perth whither they had been ordered by the King.

Both a civil convention and a Kirk convention therefore would seem to have been held on the 12th November. What seems to have happened was that the original committee of 6 of each Estate did not take effect, and the King's nominated Convention of Estates was small for the noblemen written for did not come. (1) Moysie in his account of proceedings draws no distinction between the Civil Convention and that of the Kirk. Those who did come seem to have preferred the Kirk Convention, for it seems to have been in the ecclesiastical meeting that the three ministers and the two of each estate were appointed for preparation of the trial pending a fuller meeting which was expected on the 19th. That it was a constitutional point is clear from the King's question as to whether Wedderburn was his baron or not. (2) The lairds in fact through the Kirk and Presbytery were practically asserting a right to come to convention without formal missives and when they came sat along with the nominated members if any there were present. For several times it is remarked that the "ministry" met by themselves, the lay element having apparently merged itself into a civil convention once the kirk articles had been presented. But that they played a prominent part in the presentation of these articles is vouched for but their attitude was considerably altered after consultation with the king.

The Act of oblivion passed by the King's convention of 26th November was therefore strongly opposed by the ministry although the main Kirk convention seems to have departed before the act was published for the King announced it himself to the ministry of Edinburgh. He persisted in regarding the excommunication of the Earls and in fact the whole system of Convention as a sectional policy of a "corner of the country". (3)

But the organization of the kirk prepared itself once more, and alliance with the English point of view obtained a repeal of the act. (4) The Presbytery of Edinburgh seems to have taken a leading part in these proceedings but the Presbytery of St. Andrews without waiting for such diplomacy had already been in touch as early as November 29th with the barons of the shire of Fife. On that date Andrew Melville Nicol Dalgleish and John Johnstone were ordained to "pass to Cupar on Friday next to cum the last of this instant to the convention of barons to be held in their town to communicate with them against the present dangerous estate of this country and to crave their advice and concurrence for remedie thereof. (5)

The activities of the clergy did not stop there. As soon as another convention of estates was appointed the presbyteries hastened to send ministers as representatives to a kirk meeting which apparently was to petition the Civil Power.

(1) Moysie. p. 108. C.V. p. 282

(2) C.V. p. 283. The King attempted to side track the argument by asking whether the Lords must first be received to repentance by the Kirk before trial by Civil Convention. His argument was logical enough. As excommunicates they had lost their civil right to plead. cf. the Cottonian MS.

(3) C.V. p. 289

(4) See A.P.S. IV. p. 52 18th Jan. 1593-94

(5) St. Andrews. MS. Pres. Recs. 29th Nov. 1593

It was apparently the Presbytery of Edinburgh which still gave warning to the districts of these civil conventions, (1) although most probably it was only the adjacent Presbyteries which were advertised upon such a hasty summons. The Presbytery of St. Andrews on 3rd January appointed James Melville and Dalgleish "commissioaris to the conventioun at Edinburgh the xi of this instant" (2) On the 8th of January the Edinburgh Presbytery apparently reviving its general commission prepared its campaign. Bruce Lindsay Rollok Balcanquhall and Nicholson were appointed to convene themselves "and to confer with the Lords of Sessioun in the articles to be proponit be the Kirk to the Estaitts" This is curious because only a few weeks before the ministers had zealously upheld an accusation launched by one of their number against the Session as "sellers of Justice" (3) What these articles were is not known, but it seems to be clearly recognized that in dealing with the Presbytery the Civil Power was dealing with the Executive of the Church, round which the commissioners from such Presbyteries as were advertised or took advantage of the still current "Representative Commission of the Kirk" gathered to report the needs of the districts.

There were probably laymen present at the Kirk convention but there is no definite information. In any case there were at least 11 present in the Civil Convention which reduced the Act of Abolition. Certainly the Kirk as a result obtained an influence in the Council which while it involved only the Presbytery of Edinburgh practically meant that the whole Kirk would be advertised in case of necessity. Kirk influence indeed went so far as to induce the Council to produce its minutes in Presbytery showing their diligence in calling a Parliament warding the Earls and inviting them to name lawyers to advise them in their conduct of the trial. The Presbytery not only named lawyers but also 5 ministers to assist them; the Council as reconstituted in 1594 was anxious to obtain the goodwill of the Kirk and by obtaining information of Kirk requirements from "a man of judgment" to obviate the necessity for these unauthorized conventions of which there had been so many that a formal system of Convention and Counter Convention might well have been evolved (4)

But although the Presbytery was actually the Privy Council of the Church it could on occasion become a rigid constitutionalist and refuse to make any decision without the sanction of the full Assembly particularly in the attitude adopted to Bothwell. (5)

(2) St. Andrews MS. Pres Recs. 3rd Jan. 1593-94 (1) C.V. 274 Carmichael

(3) Edin. Pres. MS. 8th Jan. See C.V. p. 291

(4) C.V. p. 292 Moysie. 112

the agent of the Central Council was at

(5) If not actually in touch with Bothwell they used this very period being processsed by his Presbytery for his continued absence in Edinburgh him as a threat against the Papists. David Lindsay's son was a Bothwellian, one of the ministers of Fife was deprived by the Presbytery for being in arms with Bothwell (18th April. St. A. Recs.) John Ross of Perth was actuated not only by religious fervour in his denunciation of the King. He was a kinsman of Bothwell.

The Road of Leith and its consequences revealed that whatever their motive the ministry were distinctly unwilling to use their full power of propaganda against Bothwell. The appearance of the Laird of Carmichael and Robert Melville in the Presbytery proved that the Civil Authority recognized the influence of the pulpit as the sole disseminator of news and hence the leader and creator of a public opinion. The mission meant a practical request for advice on domestic policy-how since the King was about to march against the Papist Earls the "erle Bothwell may be restrained that he impede nocht the presequioun of the said wark" Although Calderwood does not mention this concession (V.298) the MS Records show that the Presbytery promised "Gif Bothwel preis to lift armes ather aganes his Majestie the Prince (just born or himder the prosecutioun of the said wark they sall speik and condemne Bothwell in the said enterpryssis"(1)

The date of the General Assembly fixed so long ago (B.U.K.p.813) was now approaching. The Convention of January or a subsequent Council had arranged the date of a Parliament to meet about the same time probably in an attempt to spare expenses (2) of double journey and possibly to share in the power which gave the Assembly its national character. The system of conventions which had been more or less Particular Assemblies in the manner of the organization of the Burghs had not interfered with the formal arrangements arrived at in the presence of the Royal Commissioner in April 1593.

The chief Presbyteries sent large contingents of representatives with undoubtedly a numerous lay element. (see supra) The Assembly had learned from its successful conventions that although by no means truly democratic in character its power with lairds and burgesses as representing the commons gave it a peculiar faculty for criticizing the Civil Government of the King and the Higher Nobility. Its methods were logical, and would have formed a good model for Parliamentary Government.

After a review of all the public events which had taken place since their last meeting and approving the action of commissioners and conventions they proceeded to draw up a series of Articles for presentation to the King at Stirling representing the dangers to religion as a result of the Spanish blanks lamenting that the efforts of the godly had so far met with so little success. These articles would have been harmless enough in themselves but the particular remedies which they subjoined involved an interference in the constitution and procedure of Parliament, by the request that Parliament be not delayed so that the immediate forfeiture of the Lords might take place, and that no suspect persons be elected upon the Articles, --a tacit recognition that the King might control the election of the Articles at will.

(1) Pres Recs. 9th April and C.V.p.298

James Melville strenuously denied that there was any complicity with Bothwell. His experiences of 1585 had taught him "never to trust any of the nobility with his opinion on public affairs"

(2) Originally fixed for 22nd April, but altered to a Convention Parliament then changed to 27th May but delayed until June

A second group of demands defined the whole policy with regard to the forfeiture of the the Earls which ought they said to be by "way of deid." With a knowledge of the Crown Finances which their conferences and conventions had given they suggested that a remedy for the King's difficulties might be found in the appropriation of the forfeited estates inalienably to the Crown; and the forfeitures of resettlers were also recommended. The King had to remind them that although this might be commendable from a financial point of view the Earls were not yet forfeited.

Not content with dictating Policy and Finance and in fact anticipating a decision of the Supreme Law Court, the Assembly instructed the King how the Royal Guard ought to be used i.e. for the simple purpose of apprehending certain named papists, and even interfered in the military discipline of that body, by urging that they be tried together with their captains in respect of the many complaints given in against them to the Assemblies. Such a supervision was certainly beyond the scope of any ecclesiastical meeting and the King curtly told them that the complaint belonged not to their office.

Besides this they suggested plans for the disposal of the "Spanish Ship grounded at Montrose" and reviewed the system of National Defence. Their proposal "That the haill subjects be chargeit to put themselves in armes ... in full readiness to persew and defend as they shalbe certified be his Majestie or utherwayes findand the occasioun urgent" shows an appreciation of some kind of doctrine of responsibility to a principle higher than the Prerogative. That principle they intended should be Religion and the General Assembly, thus safeguarding their power to summon conventions and even convocations to arms without necessarily waiting for Royal Sanction. With justice the King retorted "To be ready at my charge is very meit but I understand not the clause of urgent occasioun".

The sum total of their claims therefore comprised direction of summoning of Parliament, of its personnel or executive, of its decisions as a Court of Law, of the Crown Finances of the Royal Guard, of foreign and domestic policy, and of the national defence forces. If voiced in Parliament these demands would have established that body as a limiting power upon the absolute monarch, but instead they came from an Institution which was the Opposition outside Parliament, and which lost its power to make such protests according to the degree in which its composite membership became merged in that of Parliament.

If the King in the old days of struggle for establishment had complained of incoherency and vagueness in Kirk articles this list was definite enough. Such proposals could not be ignored especially since the ramifications of the Kirk organizations went farther and deeper than the corresponding civil administration and the national defence was therefore far more easily controlled by the minister than by the feudal sheriff or special commissioners, and might possibly be turned against the Government itself. The King and Council therefore responded by

submitting a series of demands for the Kirk's consideration an admission in fact that the Assembly was a body outside the realm of Royal Command. A constitutional Opposition amounting almost to a Party Government was not far distant could Assembly and Parliament with the executive Council have combined to form a truly national body. As it was neither would tolerate within themselves difference of opinion. The Assembly avowedly aimed at unanimity although it must sometimes have been a false one. Opposition was not necessarily corrupt although the Kirk continued to believe this throughout the struggles of the last years of the century, and in the next century persecuted the minorities which supported the Engagement. A joint Parliament Assembly would perhaps have solved the difficulties had the zealots not ruined everything by their autocratic attitude in matters which rightly pertained only to the lay element of Assembly. The ministry clung despite themselves to a feudalism which refused to see the usefulness of new men as experts in their own province. The Kirk attitude to the Octavians was therefore a grave error in judgment, which was not to be redeemed by any feudal alliance.

The King's demands therefore in this instance represent the Government Policy. If the Kirk demanded punishment of traitors, to religion, the King demanded retribution for treachery against himself. Under this he placed irreverent speeches in pulpit, e.g. Ross, concurrence with the rebel Bothwell e.g. the case of Andrew Hunter of St. Andrews Presbytery, "the first open traitour" among the ministry and finally an attempt to use the ministers influence on public opinion to prevent support of Bothwell as well as any other rebels. In particular he urged that the people be dissuaded from receiving wages or becoming soldiers under colour of religion or any other pretext without Royal Warrant. In the Kirk's agreement there may have been some casuistry and an attempt to safeguard their own right to assemble an unpaid fighting force, when they only forbade "receiving wages" and omitted the general clause "to become soldiers"

Having already bridled in some measure the Assembly by insisting that its formal meetings must be fixed in his presence the King alarmed at the powers of the representative commission which had done so much to bring about what were practically extraordinary Assemblies as a counterpoise to his extraordinary Conventions of Estates, made a request which while satisfying the need of the Assembly for keeping in touch with Parliament, would be a means in some measure of controlling unauthorised convocations. The second representative commission "one or two from each principality: all presbytery" was appointed to wait upon the King in time of Parliament "no less for religion than for Crown and Country" an admission that the aims of the Assembly extended beyond a mere interest in Kirk problems to a national supervision of the Executive. (B.U.K. p. 887) The names of these representatives are not

given in the record but from later developments and from an entry in the Edinburgh Records it seems clear that the majority of them were from the Edinburgh and Fife districts (1) Row states that they numbered 24 with a quorum of about 8. He regarded the appointment as corrupt and the first step towards Episcopacy. The corruption lay apparently only in the fact that the King was to be advertised of their doings for the last General Commission had been on exactly similar lines. Row however claims that they voted in the Parliament of June but for this there is no authority. (2)

Nevertheless the Presbytery of Edinburgh in spite of this General Commission still retained its position as the summoner of extraordinary Assemblies. It seems in fact to be an admission that whatever "representative commissions" might be appointed the leadership in these as in general Kirk business lay with the Edinburgh group which called in the advice of the powerful Fife element in times of danger.

The negotiations of this representative commission are therefore those of a Kirk Council chosen allegedly impartially from the ministry of all Scotland who have sole power of communication with King and Parliament. (3)

A Cottonian MS gives an account of a conference between James and the ministry and Presbytery of Edinburgh which seems to show that the Presbytery could on occasion refuse to take that responsibility in public affairs which in point of fact they normally exercised "for that would import this ministry to have power of the whole ministry of Scotland" (4)

It was to this Parliament that the Lairds received their first writs for free election and use of their privilege as granted in the act of 1587. Was it perhaps in recognition of the danger they might be to settled government if the principle of nomination were continued, and the representative or mass meeting of the barons became the General Assembly and its extraordinary conventions.

The Lords Articles of Parliament appointed on May 30th proceeded to business in discussing the forfeiture of the Earls. The Commission of the Kirk attended their meeting on the day after the election to protest against the presence of some of the members of that committee both on the ground of their being Prelates and of their being suspected of partiality towards the Papists. This was an important claim for an external body to make in controlling or attempting to control the composition of the chief committee of Parliament. It was the reciprocal process of James' attitude in the choice of the Moderator's assessors. (5)

(1) Edin. Pres. Recs. 18th June. 1594 Galloway Duncanson Nicolson Melville Bruce Forbes Lindsay Buchanan. Not a full list but a sufficient quorum.

(2) Row. p. 37

(3) See Hist. James. Sext. p. 324 et seq.

(4) Cott. Cal. D. 41. 29th May. It seems reminiscent of an interview on

(5) cf. G. A. of 1586 "I have something to say against that man" (April 190

It seems clear that the decision of the Articles was induced by the King's impartial attitude and by the vote of the laird and burgess vote. The ministers presence was only to present their own articles and to make exhortation to influence the Lords decision. There is nothing to infer that they remained throughout the deliberations of the Committee or voted as Row suggests. Edward Bruce had not learned subservience to the Kirk in spite of its revenge upon him for opposing its suggestions in a former Parliament.

The acts in the Kirk's favour showed that a strong commission assisted by a favourable element in the articles could obtain much. Death was appointed as a penalty for hearers of mass, all Papists were to satisfy their Presbytery before 1st August otherwise upon application to the Privy Council they might be pronounced rebels with escheat of all their good to the King (thus following out the Assembly's suggested remedies. Any minister who was remiss in this respect was to forfeit half his stipend which was to augment those of the diligent. Excommunication was made more stringent in its civil penalties while a full ratification with reenactment of penalties was given to the Kirk requirements in the observation of the Sabbath. The revocation of erections which took place must have been however practically nominal. (1)

The appointment of a committee of 4 of each estate to meet 20 days before the Parliament to receive bills and petitions was perhaps made with the intention of guarding against the Kirk pretensions with its commissions and conventions which in the last Assembly at least had practically covered the whole ground of Parliamentary business. Such preparation was more fitting: ly done by a Parliamentary committee than by an Opposition body (2)

The Commission of Assembly combined with the Civil Executive to make these acts real instead of merely nominal and inoperative as so often Scottish statutes were. The letters which King and Commission sent to the Presbytery of Edinburgh must have been known to the majority of the Presbytery who were themselves members of the committee. It was probably an indication that the Presbytery might now use its propaganda in the King's interest since for the time Commission and Council were united in policy (3)

(1) A.P.S. IV. p. 62 et seq. c. 4, 5, 7, 8, 3

(2) *ibid.* c. 28. James the Sext. p. 330 also infers that the condemnation of the Earls passed upon the vote of the ministers and burghs and that the Lords were not convinced of their fault. James Melville was proud of the fact that at his suggestion an act was passed in favour of St. Andrews. p. 318. It however seems unlikely that the commission ever exercised any vote.

(3) The letters are engrossed in the MS. Recs. 18th June. The letter of the King is a formal profession of zeal against the Earls who are now in the same category as Bothwell. But the letter of the commission contained considerable flattery of his Majesty. They have "good hope that the graces of god ilk begouth to bud and florish in his tendir zeiris and now a lang time be the calumeis and ewill coursis of this godles men hes almost beine suffocat sall zit in mercie break forth"

While it seems clear that the Presbytery is still an important institution, its universal power has been transferred to the Commission. They were admonished to beware of Bothwell and to report the machinations of the Papist Lords either to the King's ministers or to Lindsay and Bruce who were thus apparently to have the ~~normal right of access~~ but not to the exclusion of others of the Presbytery who had anything of importance to contribute.

The power of the Edinburgh Presbytery had been dependent rather upon its influential group of ministers and its usefulness as a centre of propaganda. It had rarely seemed to exercise that influence with the lairds which the St. Andrews group used to such advantage. Lay eldership in Edinburgh had been notoriously lax. The Presbytery was therefore urged by the Commission to remedy this by larger attendances at the weekly meeting "accompanied with the discreetest and best affected barones and gentillmen within yr bounds" (1)

Davidson's criticism of the actions of both King and Commission indicate that the tendency of these commissioners was to exclude violent partisan feeling. His open attack upon all estates seems to show him as a true representative of the unruly baronial stock from which he sprang. He was an irresponsible agitator always against the Government. His utterances show what Bowes had already discovered that Presbyterianism was but a thin veneer upon the fundamental feudalism of Scotland. (2)

The influence of the Commission in spite of this was widespread. At a Convention of Burghs in Stirling on 2nd July the minister of Stirling produced the Royal Letter to the Presbytery of Stirling presumably a replica of that sent to the Edinburgh Presbytery and asked the concurrence of the Burghs to assist the King against the Papists. They agreed to do so upon advertisement from the King and promised to bring any resisters of the Papists to justice within their bounds. (3)

- (4) The Kirk influence with the Burghs was used later by the King to obtain grants of money, of which he was always in need and to procure which he altered his policy at will. Thus on 16th July 1594 he asked the Presbytery of Edinburgh for assistance

(1) Edin. MS. Recs. 18th June. Signed by the 8 names mentioned supra

(2) C.V. p. 338-9. He feared the Edinburgh rabble which showed hostility in spite of the threatenings of the preachers when their local privileges and markets were attacked

(3) R.C.B.I. p. 444. The letters were presumably sent out by the Central Commission, unless it was that the Presbytery of Edinburgh informed the other Presbyteries according to its previous custom

(4) See J.M. p. 318

James resurces to obtain money are dealt with in a Thesis by Dr. Bryden.

to assist him in obtaining money for expenses of the prince's baptism, and again for raising troops against the rebels. His request to the "ministers of Edinburgh with some other" who were probably the General Commission of the Kirk was for a levy of 600 horse and 600 foot and indicates that though he might disapprove of Kirk's plans in other directions he realized the effectiveness of their methods of personal collection. The example of November 1592 and particularly the attitude of Glasgow had shown the Kirk that their allies were averse to paying for hired troops and preferred to serve as the feudal fighting force themselves. (1) But a committee of ministers did meet with a committee of the Council for considering ways and means of raising money and by an appeal to religious enthusiasm throughout the quarters of Edinburgh some supplies were promised. The alliance between Kirk and his commission and the State went so far as to authorize the ministry to convene the barons and gentlemen as well as burghesses "to advise upon a means of resisting the enemies of God", and to prepare themselves to march at the King's bidding. (2)

This period of alliance was of immense value to the King. The commission of the Kirk collected money for his expeditions to the North, they assisted in organizing the barons as a fighting force, they accompanied him on his march North and through their influence the burghs were induced to increase their supplies. That the policy was not wholly popular is evidenced by the application of the Presbytery of Edinburgh on 21st August for a commission "to the gentlemen and burghs to take protection of the ministers" presumably against both the Papist agitators and the Bothwell faction which did not approve of such an alliance between Kirk and State. Like their descendants in the Civil Wars the attendance of these ministers in camp was always directed to obtain greater severity. When the expedition returned in December the general opinion of the ministry and this probably means the Commission was that the affair ought to have been pursued to extremity. The King's tentative efforts to placate these grievances which would very soon spread all over Scotland are shown in the revived commission to execute the acts of Parliament against immorality, cursing, Sabbath markets, beggars etc. (5)

(1) C.V. 341 et seq.

(2) P.C.R.V. p. 157 22nd July

(3) James only set out on 4th October. It was probably in the Convention of Estates of September that the Burghs voted their contribution of expenses for 1000 foot for 2 months of which only one month had actually been paid. The barons also contributed in addition to serving themselves. James Melville's duty was to agitate for the payment from the individual burghs for the proportion of their second months wages. C.V. 354 J.M. 318

(4) Edin Recs. MS. The alliance between barons burghs and ministers probably extended to the protection of such of the commission which went with the King.

(5) P.C.R.V. p. 200

The discovery of the complicity of the "Protestant hero" Bothwell in treasonable correspondence with the Papists and the full account of the various confessions given by the Council delegates to the Presbytery indicate quite clearly that the propaganda of the pulpit was sought as a means of counteracting these schemes. The historic "information" was given on February 3rd along with the demand for the excommunication of Bothwell. The procedure of the Presbytery indicates that in spite of the "General Commission" which could not regularly be in attendance upon the Court, that the Edinburgh group still acted as the Privy Council of the Kirk. The suit for stipends necessitated the presence of a good number of ministers in Edinburgh. These and apparently as many of the General Commission as could be advertised met along with the Presbytery on the 5th of February when it was agreed that Bothwell's crime merited excommunication but two members of the General Commission were sent to find out whether the King desired it in all provinces at once. The King however would be satisfied with the sentence pronounced by such ministers as were present. He had apparently no objection to summary excommunication in "a corner of the country" when it would not advance his schemes and influence public opinion in his favour.

- (1) By 7th February the meeting contained representatives from Angus Fife Lanark Dalkeith Haddington Jedburgh, a good indication of how Edinburgh was the hive of the ministry whether merely present as pursuing before the Platt or simply awaiting the turn of events in the Capital. Still doubtful as to committing the General Kirk (for whom Bothwell's importance thus seems certain) they requested that the King would write
- (2) for "Convening of brethren out of all Presbyteries" Calderwood states that this meant only the attendance of the Presbyteries of Lothian, but it seems rather as if it were an extraordinary convention of the kirk (but only the ministry thereof) for a special purpose. Why they should invite the King to summon an ecclesiastical meeting is unknown, and was distinctly contrary to their usual practice. It may be that what they were aiming at was a full meeting of the "Representative Commission of the Kirk" whose advice the King was entitled to call for. But this fuller meeting on February 18th if it was a Convention of the Commission was unwilling to prejudice any decision of the General Assembly on the point and the excommunication was accordingly announced not as the work of the full meeting but of the Presbytery of Edinburgh alone whose decree might be more easily rescinded than that of a Commission which had the full force of the General Kirk. (3)

(1) Edin. MS. Recs. 7th Feb. 1596

(2) C.V. p. 363

(3) William Aird the Moderator of the Edinburgh Presbytery pronounced the sentence.

This attitude was continued in their consideration of the general question whereby the King desired to obtain some definite rule so that the spiritual authorities might be prevented from exercising that discretionary power of censure in relation to the King's rebels. "Whether those forfeited for treason ought not likewise to be stricken with the spiritual sword of excommunication", so that once cut off from the civil body they might automatically be cut off from the spiritual. The civil magistrate automatically put to the horn the excommunicate, therefore the duty ought to be reciprocal traitors to the King ought to be put to the ecclesiastical horn. But the meeting found that the question affected the whole church and referred it to the Assembly. (1)

In the same way on the question of "Balweary" the King urged them to call representatives from other Presbyteries to make decision, but the Presbytery declined until the Parliament or Convention of Estates should hold their meeting. Then only did they direct letters to the Presbyteries to summon them to a meeting on the 11th March the day before the Convention began "for consulting upon sick articles to be proponit to the Estates as concerns the Kirk" (2) Whether this was a special convention of the Kirk or merely a large meeting of the representative "Commission" is not clear. In any case there is no record either of their decisions or of the articles which they proposed to the Estates. It would certainly seem to have been the Commission which went to Stirling in April at the King's call in the affair of the excommunication of the Laird of Spott. The Kirk was partisan. Any of their quondam allies they were unwilling to sentence summarily although they had no hesitation in other cases (3)

The General Assembly was to meet on June 24th in Montrose. On 10th June Edinburgh proceeded to election sending 4 ministers and 2 lairds (who must under the circumstances have been arbitrarily nominated). The King's negotiations with the Kirk through his commissioners were simply directed to clarifying the pressing problem of excommunication. He demanded the reciprocal use of the "two swords" in cases of "treasonable enterprise" which had been found culpable by law. In agreeing in general terms the Kirk added the proviso "legitima cognitione ecclesiastica praeunte. It was also agreed that no excommunication should pass at the "appetite of 2 or 3 particulars" but only when a convenient number of the Kirk be gravely assembled. In the late struggle over Bothwell the Kirk had been more careful in this direction than the King had desired. For the respect of the spiritual censure it was essential that the "last weapon" of the Kirk should not be used for trifles nor in small civil cases. (4)

(1) Pres. Edin. Recs. MS. 18th Feb. see Calderwood. V. 365

(2) Pres. Recs. ibid.

(3) C. V. p. 366

(4) cf. David Black's invectives over the title of a house in St. Andrews

But the Kirk was unwilling to let its chief source of power become purely a matter of rule and of form. It delayed making decision on the demand for the abolition of summary excommunication "Quhill the next Convention" i.e. of the Kirk.

An elaborate system of commissions was appointed to consider the delapidation of benefices and to agree upon a Constant Platt so that ministers might be saved the labour of suiting in person for their stipends. A commission of 18 minister roughly representative of Provinces was nominated to begin sessions on 1st September who after receiving detailed accounts of parishes from individual ministers appointed for the purpose in each Presbytery were to come to some fixed conclusion on the whole question. Their report was to be submitted to the delegates of Presbyteries which were computed at 50 and upon approval the whole scheme was to be presented to the King and Council for ratification. The scheme was on a national basis and the duties of the Commissioners would be extremely onerous so that the occasion merited what seems to be the first trace in the Kirk records of the payment of commissioners for duties (1) which were intended to benefit the whole community of ministers

Although it is nowhere stated in the official record a General Commission was once more given to a group of leading ministers who somewhat closely resembled in personnel this Commission of the Platt, another indication of how the power of the Assembly tended to be concentrated in the hands of a group in and around Edinburgh. Row suggests that the previous commission which was supposed to be representative of each Presbytery but which he places as consisting only of 24 delegates was simply renewed in the same persons. It was certainly from (2) this Commission that the smaller commission for visitation of the University of St. Andrews was chosen. But it does not seem to have been this commission before which Black was summoned at Falkland but rather one composed of a moderate party which certainly did exist within the Kirk although the demagogue methods of Melville and some of the Edinburgh group often "bore them down". The King had begun to exercise the power which the Kirk had declared to be orthodox of summoning for advice such ministers as he pleased, and Black refused to recognize those who were present on this occasion as any accredited commission or court of the Kirk. Spottiswood's "wiser sort" were different persons from those whom Melville called the "best". Except in times of crisis these extremist "best" seem to have been in a minority. Andrew Melville's high handed proceedings may perhaps be accounted for by the fact that he was probably one of the General Commission which in this instance had not been consulted. (3)

(1) B.U.K. p. 847

(2) ibid. p. 856

(3) It was the scene of the speech as to the "two kings and two kingdoms" but the King was not presuming in this instance to judge by the council alone. The moderates whom he summoned were there probably as extraordinary members of Council

The violence of the elder Melville was a danger to any considered policy, but the necessity of alliance between King and ministry to cope with the Bothwell and his alliance with the Papists prevented any definite breach.

The persistency of the minister who was always on the spot and who had an intimate knowledge of all his parishioners sometimes made the Kirk law more effective than civil enactment. Something like this was behind James' desire for reciprocal punishment for treason and excommunication. It had ever been the object of the court to impose regulations upon undue richness of dress and upon other luxuries, but in the increased wealth of Scotland often with little effect. The Presbytery of Edinburgh in August 1595 took up the matter and passed what was practically a sumptuary law. Ministers were to speak with their congregations "to keep a frugalitie moderatnes and sobriety in their Houssis and apparrell" and to note those who persisted (1) in this display. The Privy Council followed it up in December in some measure by a civil enactment. (2)

Although the moderates under Lindsay might prevail in times of peace whenever there was danger or rumour of war the agitator demagogue type of pastor carried all before him. Davidson was a powerful recruiting officer but his contribution to settled government in Kirk or State was practically nil. The experiences of the Armada and the success of their convocations of the lieges and particularly of the barons led the Kirk to presume that the support and co-operation of their Presbyteries was essential to the success of any muster or warlike preparations. Thus during November of 1595 there were many rumours current as to Spanish preparations for a second invasion. On 26th November the Privy Council appointed musters and wapinschawings and passed an act inviting the co-operation of the ministry in urging the people to attend these. This seems to have implied purely a personal influence directed to making the civil law effective. The Kirk or rather the Presbytery of Edinburgh (which in spite of the Commission of Assembly still enjoyed its prior position) sent a delegation to the King and Council to ask for a conference as to the means of resistance. What they intended was that the Kirk and State on equal terms through the medium of the "Privy Council" of each should co-operate. But the King seems to have realized that local propaganda of the ministry, their alliance with the lairds and so with their feudal tenants, would inevitably meet with a greater response than the Royal Proclamations could expect. It would virtually mean that in case of difference of plan or point of view the fighting force of the Presbytery would contain the majority of the barons. He had no desire to put to the test whether the Civil or the Ecclesiastical Power was stronger in the local districts. This was what he meant when he said that "the convocating (3) of professors by the presbyteries would disgrace his proceedings."

(1) Edin. Recs. MS. 19th August. (2) P.C.R. IV. p. 244 10th Dec.

Nevertheless they persisted in their proposals but James himself was clear enough on the point of the necessity of coordination with England on this occasion. These claims to control the national defence force and the similar claims in other direction to direct the executive of the State represented the high water mark of the Kirk's pretensions as a genuine rival of Parliament. The main reason of the Kirk's fall from this position lay in the fact that for the time she opposed herself to a very reasonable attempt to reorganize the finance of Scotland. The point was a technical one which "inspiration" was unable to cope with, but it involved the Kirk's feudal principles of allegiance to the ancient nobility and the struggle although it resulted in the resignation of the new officials also ruined the Kirk as an independent national leader. Their interference with economic questions was on religious. The first appointment of the Octavians who in their efforts to organize the state on a good financial basis took place in Council 9th January. (2) Amongst them were several who were suspect in Religion but this was not apparently among the causes which induced the General Commission of Assembly to summon a General Convention of the Kirk. The true causes of the Assembly were in fact the political situation and the impending Spanish Invasion.

This commission had apparently taken over this function of the Presbytery of Edinburgh, but that the King was consulted seems established. The law was definite and when they wished to evade it they could always fall back upon their extraordinary conventions. The letter sent by the Commission to the Presbytery of Haddington which was specially mentioned in the Assembly itself seems to indicate that the leading Presbyteries received greater consideration than others in the explanation of motives etc. (3) These causes were professedly extraordinary (i) for universal repentance and (ii) for resisting the enemy and for the maintenance and defence of the country. The anxiety to obtain a representative body of gentlemen indicates a crisis. The Assembly met on March 24th

(1) See C.V.p.389 (2) P.C.R.V.p.254 Hist. James Sext 357

(3) Hadd. MS. Recs. Feb. 25 1595-6 Anent the letter directit from the commissioneris of the Generall assembly desyring us that seing for sundrie causes thair is ane generall assembly to be haldin to begin the xxiii of merche nixt following not only of ministeris bot of the best affectit noblemen and gentlemen of this realme To appoint some commissioners bayth of the ministrie and of the best affectit gentlemen within our boundis" A mass meeting of the gentlemen took place on 10th March who appointed by their own election delegates to attend.

in Edinburgh. It was an age of personalities, and accordingly Haddington took a prominent part in that the arch agitator Davidson was now of that brotherhood. He held that the Presbytery had concentrated more in the preparation of remedies for and accusations against the sins of the ministry and Magistrates. Pont as Moderator insisted that the chief cause was the national defence against the Spaniard and although the Assembly considered in the first instance the "corruptions of all Estates" a committee consisting of ministers and barons. (1) Whether burgesses were present is not clear but their convention of Burghs was not contemporaneous and the concentration on the Barons as the fighting force implies that the burgess members were not essential. The circumstances seem to suggest that the King was anxious under colour of zeal against Papists and Spaniards to obtain money through the means of the Kirk, perhaps at the suggestion of the recently appointed Octavians. The Commission had been urged with the Spanish menace and this explains the anxiety of Pont who was one of the Commission to go directly to business.

The King's acquiescence in these efforts at national defence is explained by his direct appeal in the 4th Session in person, for a Contribution of the whole realm, but before making any decision the Kirk in the manner of the English Commons made strict enquiries as to what had become of the revenues which in the previous assemblies they had suggested might be utilized to meet the Crown deficit i.e. the appropriation of the rebel forfeitures. With the intention of inducing agreement to his contribution he professed a willingness to assist the Kirk in its schemes for a Constant Platt and to submit to censure should any grave fault be found in his life and conduct, a suggestion which the anarchist Davidson seized upon with zest.

But the real cause of the Assembly's meeting resistance to the Spaniard was little affected by his Majesty's visit. Their proposals for national defence were practical and detailed and the King's commissioner was one of the committee which assisted in their formulation. The King's visit had found them in the midst of business and their schemes were incomplete. The final arrangement involved a co-operation with the King and Civil Power which however in the localities must have been nominal for the Presbytery as a unit was as a rule more effective than a shire. They proposed the internment of all suspect rebels and assisters, and in the matter of finance, as they had suggested to the King, the appropriation of all the revenues of these rebels, the proceeds being used to pay "waiged men" as a defence force. In addition to these mercenary troops, a militia was to be trained in every parish by monthly musters, under the direction of a captain chosen by the joint authority of the Civil Power and the vote of the minister session and chief men of the parish. In a similar way a General Shire Commander was to be chosen to co-relate these parochial organizations. How were these to be armed? Even on such

(1) B.U.K.p.859. The Privy Council had been busy during February with regulations for defence but the Kirk proposals obviously contemplated superseding them. P.C.R.V.p.274

* The Lord of Kintore (Edward Bruce) - a Lord of Exeter.

a technical point the Assembly was ready with a scheme for the supply of munitions of war, which were to be contracted for and bought as soon as possible from merchants from abroad. (1)

Money for the waged men of course was the problem and although the Kirk did not consent to the universal contribution it remembered that the acts of caution for the good behaviour of the rebel Lords had never been executed. These cautions were to be collected and the money so procured used in the payment of troops and the supplies of war.

Later they suggested methods of dealing with the wives and sons of the rebels who had been in possession of the revenues which the Kirk now proposed to annex to the Crown for the expenses of War.

The whole scheme was a comprehensive and statesmanlike review of the state of the country and the economic situation. In the financial side it depended for execution upon a strong Central Executive, but its own experience ought to have warned it that the Civil Power was weakened both by the feudal claims of the nobles whether excommunicate or not, and by the very independence of the Kirk itself in matters of jurisdiction and policy alike.

The disastrous position of affairs arose according to the Kirk view from the corruptions of all estates. Beginning first with the failings of the ministry surprising conditions were revealed in the association of ministers in trade usury medicine and other professions. In their anxiety to present a united front against the class they reenforced the act prohibiting ministers to pursue civil actions against each other in civil Courts, and they prohibited all and sundry ministers from awaiting upon Court and Civil affairs, Only those authorized by the Presbytery were to do so. The excuse of stipend had been removed in part by the appointment of the constant platt of ministers in the previous Assembly. (2) A solemn but semi private admission of sins witnessed great scenes of fervour. Although only composed of ministers and the chief professors the meeting numbered over 400, an enormous proportion when it is considered how small the contemporary Parliaments were. From examination of their own defects they passed readily enough to the sins of the King and his household. A general review of the whole country in Estates

- (1) In the next Century the career of Thomas Cunningham is intensely interesting in the same business of contract and supply of arms. He paid the merchants of the Low Countries as best he could but ruined himself in the process. Both Committee of Estates and the Commission of Assembly had negotiations with him. See MSS in Register House Minutes of Committee of Estates
- (2) Traces of the act are to be seen in the Register of St. Andrews Presbytery April 29 1596. Intimation was made of an act of Assembly "dischairing ony breithier to mell with ony civil turnis quherbe they may be withdrawin from dischairing of ther office in their calling except they have the liberte of the presbytrie for that effect. (Pres. MS Vol I.)

* And extended it to include readers.

and in Administration. In the execution of justice they found glaring evils, the venality of the Session partiality and general negligence. Amongst the Courts they placed Parliament whose chief corruption in their eyes lay in the fact that prelates and titular Bishops were still permitted to vote in the name of the Kirk. (1)

A summary of these corruptions with general directions for remedy was presented to the King.

Both "causes" of summons had therefore been dealt with in a manner which left no doubt as to whether the Assembly thought itself competent to direct the national policy. There remained the question of provision to the neglect of which as a rule all the national evils were attributed. In the previous Assembly the Commission of 18 with the advisory committee of 50 (one from each Presbytery) had been appointed to consider the whole question. These had not formally made their report when the Royal Commissioners proposed a wider and fuller settlement than had been contemplated. James' offer under the circumstances was a direct bargain in which he offered fixed stipend in return for the Assembly's financial and executive support in other directions. There is no doubt that it was the suggestion of the Financial Experts the Octavians. James stated his case thus. By the various acts regulating the thirds he was entitled to a portion of the rents but there was proof that not only the Kirk share but even the whole of the Third was insufficient to provide for the ideal arrangement of one minister for each parish. The best method had been proposed in 1592 whereby each minister was to be paid by local stipend founded on agreement between the tacksmen the Crown and the Kirk. The Commission of 1592 and subsequent ones had done something in this direction but the troubles and the illconsidered preaching of some ministers had hindered the consummation. Arrangement should be with the consent of the possessors and with as little injustice as possible and for this purpose the Commission of the Platt Council and Chekker should meet with the Kirk delegates to arrive at some definite conclusion immediately upon the dissolution of the Assembly. The King insisted that whatever answer was returned to his proposals it should be the vote of the full assembly and no tentative decision of a committee or conference. From Parliamentary experience he knew the dilatory methods of such committees and it was probably the insistent demand of the Octavians for a general investigation of all revenues which accounted for the unaccustomed clarity of expression. Before definitely stating their acceptance the Kirkmen considered the report of their own committee of 18 on the point, probably it was they who dealt with the Royal Commissioners in the eventual formulation of that hypothetical "Platt". Their proposals for the intervention of the Presbytery in lay patronage after a lapse of 6 months and a prohibition of setting of tacks without consent of Assembly provision for a supply of educated ministers by the support of bursars at the New College of St. Andrews at the expense of the

(1) This naturally connects itself with the scheme formulated in the Constant Platt for representation of each Pres. in Parlt.

vacious Synods. Their most important proposal from the Constitutional point of view was for a central executive resident in Edinburgh, both for the purpose of the Platt and the planting of Kirks, general negotiations of the Kirk and for intelligence of the enterprises of the enemy the Papists and Spaniards. They recommended that this committee should be composed either of those whose charge was in Edin: burgh or of individual ministers specially appointed for the purpose. The Assembly in consenting followed its old policy and appointed Bruce Lindsay and James Balfour of the Edinburgh brotherhood and James Nicolson when he could attend

In spite of Commissions therefore this last appointment indicated that the usefulness of the Presbytery of Edin: burgh was recognized as being usually more efficient than unwieldy representative commissions which were difficult to convene and often doubtful as to their constitutional position.

Once more then a central group of Edinburgh Presbytery ministers was set as watchdogs over the Court and the Spaniard.

Although subsequent events proved that some kind of General Commission was appointed there is no trace of its election in this Assembly unless it is to be inferred that the Commission of 19 for visitation had the "General Commission" also attached to their function. Certainly the inner Executive (1) Council was also of their number. It is curious in face of the immense influence wielded by the Commissions of Assembly prior to those which came so much under Royal Sway, how little is known of their actual personnel. The truth seems to be that the central group of Edinburgh ministers augmented by the Fife zealots and one or two extremists from other parts of the country were the executive in all affairs of importance and that they led the affairs of the Kirk and Country as they pleased. For all the insistence upon the importance of the barons and burgesses never in these General Commissions is there a trace of their presence. In the affairs of the Kirk the ministry was the executive summoning on the model of the Privy Council augmented meetings for special purposes. That the laymen summoned were normally not elective is clear. The minister had the power of determining by the light of "inspiration" who were the "best affectit" gentlemen and except for later practice in the matter of elections for the full Assembly nomination of the baronial element lay with the minister

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- (1) This is borne out by the fact that by the 13th Session the Kirk had accepted the suggestion for the Constant Platt. The same 19 were to receive commission from the King to take inquisition of the state of the Kirks and to arrange local bargains with tacksmen reporting to the Royal Commissioners of the Platt as appointed by the act of 1592. The commissioners expenses were to be paid by the State. B.U.K.p.877

These Kirk Commissioners met with the Royal nominees, after the conclusion of the Assembly. A hint of their discussions is given in Melville's Diary (1) the result of which was the preparation of the elaborate scheme. John Lindsay of Balcarres one of the Octavians was the leading originator. It involved the reendowment of the Kirk with the tithes and the apportionment of local stipend by a joint board of ministers and Lords of Chequer according to the act of 1592 and these stipends were to be fixed and permanent being collected by the minister himself.

For consideration of which particular lands ought to pay a local committee of the Presbytery and 3 Barons was to be appointed. The surplus of the benefice was to be devoted to the support of colleges and for the Lords of Session and indemnification of the present possessors, the poor and repair of bridges Kirks etc. By the act of annexation the temporalities of the prelates were given to the Crown, the spirituality or tithes were now given to the Kirk so that the estate of Prelates was destroyed. Their removal involved the loss of an Estate of Parliament, there in future it was suggested that each Presbytery should send one commissioner to Parliament out of which number i.e. 50 enough should be chosen by the rest of the Estates to make up with the remaining present possessors the full quota of the ecclesiastical estate. After the possessors died the whole Estate should consist of Presbytery delegates.

This scheme was revolutionary but was rendered practically ineffective by the act of Estates of August which renewed tacks of teinds indefinitely thus prohibiting each gentlemen from owning his own teinds and making definite provision for the local stipend. The result was the return to the ineffective methods of suit for stipend and other local bargains as favourable as could be obtained.

The financial position thus little improved the constitutional importance of the idea of Presbyterian representation in Parliament represented the logical result of the Kirk claims to control the Ecclesiastical Vote in Parliament.

The Kirk having in the late Assembly put forward clear schemes for National defence, now through the organization of the Synods as the closest approximation to the Shire put these schemes to execution by means, as the King had realized, of its alliance with the barons. (2) And these preparations continued even when it was clear that the King had no intention of following out the Kirk proposals.

The Commission of the Kirk was certainly in existence but in his plans for the return of the Earls the King used his prerogative power of summoning for advice those of the ministry whom he pleased whether it was the more moderate of the Commission (3) whom he chose or simply the moderates generally. That Andrew Melville regarded it as his right to attend any negotiations with King and Council is clear by right of his commission "to see to the dangers of the Kirk at all occasions. The idea of a right

(1) J.M. p. 331

(2) See the account of the Synod of Fife. J.M. p. 363 No mention was made when they chose the ~~commissaries~~ in the Presbyteries of any Royal permission or coordination with civil organization

C.V. p. 437. July.
(3) See Rail, p. 146-7 note. Twelve letters were sent to individuals.

to attend a Convention which was still within the King's summons is a constitutional advance and an attempt to limit arbitrary methods in the less formal as well as the formal Parliament. (1) The Records of the Presbytery of Edinburgh show that despite the "Commission" they continued the direct method of appeal to the King. On 17th August they sent delegates to the King at Callendar to receive his assurance against admitting the offers of the apostate Earls although in point of fact the Convention at which Melville made his protest had prohibited further action against them. (2) on condition of their making offers of submission. On 31st August the Presbytery received the assurance that nothing should be done nor offer admitted until the earls were safely out of the country and then only "be advyss of the best affected of the nobility baronis burgessis and ministers" (3) The repeated intention of including ministers in these extraordinary Conventions of Estates indicated the process whereby they should one day be included in Parliament. Thus the Convention of August at Falkland had come to a conclusion which seemed quite at variance with the assurance received by the Edinburgh Presbytery

(4) It was these discrepancies probably which induced the desire of the "Commissioners of Fife" ~~sent to~~ the Presbytery of Edinburgh for commissioners to be sent to a meeting at Cupar "to consult how to prevent the dangers imminent to the Kirk and religion". The two ministers whom the Presbytery sent were James Balfour and James Bennet, but the whole question of summons and why the centre has changed to Fife is not clear. Calderwood calls the meeting at Cupar in September a meeting of the "commissioners of the General Assembly with divers other good brethren". What in the meantime has become of the central executive committee of 4 which had been appointed to be resident at Edinburgh as a guard against such emergencies. The truth seems to be that the general commission consisted of groups each within their province and according as the Court changed its residence so these groups became respectively the summoners and leaders. Personalities as usual were stronger than reasoned constitutionalism. The King persisted in regarding these meetings of commissioners especially if augmented by others not of the formal commission as tantamount to a violation of the 1592 act, and accordingly received the unasked advice of the meeting as presented by 4 delegates as seditious. Andrew Melville's political theory as explained to "God's silly vassal" was a strong indictment of any kind of coalition government or balance of power, and was instead a recommendation of a limited monarchy limited not by constitutional and Parliamentary methods but by an external power - the ministers and the Protestants not as members of the body politic but as members of an institution sufficient in itself but requiring the legal sanction of civil law which they were prepared to dictate.

(1) C.V.p.438. Sp. II.p.7 Even Robert Bruce saw the hopelessness of attempting to cut off from the state lords with such enormous feudal influence

{2} Pres. MS. 17th August (3) ibid. 31st August

(4) Pres. MS. recs. 31st August. (5) See J.M.p.370
ordained to watch for the weale of the Kirk in so dangerous a time.

The theory of the attitude to the state was that of the ministry. What of the lay element in these negotiations? Like the King the Ministers were prepared to call in their advice especially that of the barons in time of crisis, but until actual force was necessary they were quite prepared to pursue their schemes on the lines of the Civil Privy Council. Had the lay element made these demands not as inspired leaders of the Kirk and interpreters of the divine will the period would have shown a great constitutional advance towards a free expression of public opinion. But the Melvinian doctrine did not accept the early doctrine of the equality of all believers.

The delegation from this last convention at Cupar had been instructed to ask the King that there might be another meeting of the brethren in Edinburgh in October. That they did not regard his consent as in any way essential is borne out by the letter which the Presbytery of Edinburgh on 5th October (1) received from the Synod of Fife asking for a meeting of the Commissioners of the Kirk in Edinburgh and requiring the Presbytery to fix the day thereof. The leadership of the Fife group had obviously increased. Formerly the onus would have rested solely with the Presbytery. The only result of the "General Commission" had been to transfer the initiative from a group in Edinburgh to the even more extreme ministers of Fife. That they now asked the Presbytery to fix a day is an indication that in its own bounds each Presbytery was supreme. (2) The central four of the executive too had the power of preparing such extraordinary meetings within the bounds of Edinburgh. The object of the meeting of the "General Commission" was consideration as to how danger was to be avoided according to their commission from the Assembly.

The Presbytery replied by fixing the date for 19th Oct. But as a Presbytery not as a formal Commission of the Kirk they sent on 28th September on their own initiative two delegates to the King sitting in Convention at Dunfermline (29th) with a precise list of demands which dictated the whole business of Convention with regard to the Papist Earls. (3) In spite of this the Estates gave them permission to return. (4) The meeting of the Commission of the Kirk in October 19th or 20th was therefore a meeting as it were of a dissenting Estate.

(1) M.S. Edin. Recs. (2) MS. recs. The meeting was only to be therefore of the Commission itself. but rules relating to definition of numbers were never kept

(3) Edin. Pres. Recs. 28th Sept. 1596 They sent Balcanquhall and Rollock to ask that no favour be shown to the Lords, that the promise given at Callendar be not altered, that order be taken with Lady Huntly, that the King with advice of the Estates take order for the pursuit of the Earls still in the country

(4) A.P.S. IV. p. 100

The initiative having come from the Province of Fife, particular notice of the actual date was sent by the Presbytery of Edinburgh to the other Presbyteries. Whether all the Presbyteries of the realm were advertised or only the most "zealous", is not clear. The Presbytery of St. Andrews on October 7th considered this letter from Edinburgh "craving the concurrence of sum of thair brithering to be at Edr on 19th October" (1) There is no indication that the ministers sent must be members of the General Commission of the Kirk for avoiding dangers. The numbers sent showed that but for the lack of a stated lay element the meeting on the 19th October would have just as large a personnel of ministers as an ordinary General Assembly. The Presbytery appointed Andrew Melville James Melville Nicol Dalgleish and John Carmichael to resoun wit and conclud with the said assemble and to assist the present conventioun in quhatsoever concerneth the advantage of god's glorie and the suppressing of sine".

- (2) About the sympathies of the St. Andrews group there was no doubt. On the same date it recommended the rigorous hunting down of the Earls and their supporters. The ministers were to try within their boundis quha ar traffecteris moyenaris for them that theu may underlaiy the foirsaid sentence of excommunication". The young laird of Largo was particularly suspect. This indicates that in the selection of the "best affectit" the ministers had to discriminate among their baronial friends. The Kirk assemblies therefore no more represented all parties in the nation than did the Parliament itself.

- In his account of the Convention of the Kirk in October Calderwood describes it as "the meeting of the Commissioners of the General Assembly and from diverse Synods although as we have seen it was the Presbytery which appointed them in the case of St. Andrews". The tradition persisted that it was the Synod which authorized the election and gave the general instructions although the individual Presbyteries made the choice of persons.

The proceedings are not registered in the Presbytery book of Edinburgh although in the majority of collective meetings this had been the normal rule. It is clear from James Melville that a separate register was kept. Their business was for no other purpose than for discussion of the domestic situation arising from the return of the Earls. Although the dangers of the Kirk were the prime motive, the part they played was simply that of a Government Opposition awaiting their opportunity once more to "control the King". From the letter which they wrote to all the Presbyteries it seems clear that the Presbytery of Edinburgh had advertised only the provinces near at hand, just as in the Civil system "only the most accessible commissioners" were summoned to General Councils (4) Their object in writing full

(1) Pres. Recs. St. Andrews. Oct. 7th 1596

(2) *ibid.*

(3) C.V. p. 443

(4) See Rait. p. 145

accounts of the conclusions of their meeting that there was a definite plot in hand by the returned earls and an report of the Government proceedings, was simply an appeal to party opposition, and a claim to prepare the professors for resistance of both actual plot and governmental leniency. The King had no means of counteracting this influence upon public opinion. The Presbytery as the link between shire and parish was invaluable to the Kirk for purposes of such organization and propaganda and the regularity of its weekly meeting corresponded to no Civil Court. Local organization as far as the State was concerned was mainly feudal and the Kirk had found means of entering the feudal stronghold.

As usual under such extraordinary circumstances a special emergency committee or executive was appointed on a kind of representative principle, not as Synods nor Presbyteries but as "Quarters" of the country. Four were appointed for the North 4 for the South 4 for the West and 4 for the Middle. These were to convene round the Presbytery of Edinburgh, in relays of 4, one from each quarter, each group serving for one month. The expenses of these Commissioners were to be paid by the rest of the ministry of the quarter. (1). This central group if it were found that the danger was increasing was with the advice of the Edinburgh Presbytery, to summon a General Assembly of all the ministry from all parts of the country along with a "good number". The group of Commissioners for the first month took up their duties on November 1st. (2) along with 6 of the Edinburgh Presbytery who seem to have been appointed either for the first month or as permanent ordinary members. Their meeting place was left to their own determination but they were obliged to meet at least once a day. They were known as the "Council of the Ministry".

The Civil Privy Council having been abruptly made conscious of their presence by the attack upon Seton chief of the Octavians and President of the Session were compelled to enter into negotiations with them as the accredited Privy Council of the Kirk. The line of argument was exactly that proposed by the Presbytery of Edinburgh to the September 29th Convention at Dunfermline. The Kirk was strongly against any mercy being shown the Earls even should they satisfy the Kirk in the matter of excommunication. It was not a question of bringing to repentance. It was a definite line of foreign and domestic policy which they were insisting upon. They were in fact simply the "Front Bench of the Opposition".

(1) N. Douglas Blackburn Gladstones Nicolson; S. Clapperton Knox Ramsay Carmichael; Middle J. Melville Buchanan Lindsay Stirling West. Howeson, Knox, Porterfield Wilkie.

It may be the payment of this commissioner that is referred to St. A. Pres. Recs. Nov. 11th 1596 A delegate was sent to Cupar to ask the Presbytery's concurrence for "a contribution to the Commissioner". A stent was set down for the purpose

(2) C.V. p. 447

^ (omitted) "of the best affected noblemen barons and commissioners of Burghs."

In conference for the removal of grievances on both sides the King's point of view was definitely stated. There could be no peace until jurisdictions were defined; He tried to control the liberty of speech of the ministry in the pulpit., by insisting that they should make no comments on public policy unless he had been advertised as to the subject of their observations. He insisted that the General Assembly which this committee had power to summon should not be called without his consent, and that no acts should be held as valid until they had received official and civil sanction. Decisions of the Kirk therefore would thus remain as Bills until ratified in Parliament or Council. He cited the analogy of Parliament itself where nothing was valid without the Royal consent. The lower church courts should confine themselves to trial of morals. These demands were enough to show that James appreciated the fact that his growing control over Parliament would be of no effect unless the Assembly agreed to take up a place within the civil constitution and subject to the royal authority. The position was considered so grave that the Presbyteries were advertised according to the original plan (2)

It seems clear that the original monthly group had been gradually reinforced by numbers of ministers either of the Commission of Assembly or generally of the zealots, and the whole group passed under the name of the Council of the Kirk although augmented after the manner of a General Council. Black's declinator was by the direction of the Council of the Kirk. His case in point of fact was not as good a test one as might have been procured for he had made an attack upon the English Government which was certainly not in the best tradition of the ministerial policy. The confusion of the issues, Black's declinator and the General welfare of the Kirk was the work of Andrew Melville who probably felt that the Church was strong enough in the provinces to gain a decisive victory. In point of fact his attitude in the appointment of the captains (according to the schemes of the last Assembly) for leading national resistance was construed (perhaps rightly in view of his earlier exploits) as an attempt to raise the lieges in an insurrection. (2)

The system of intelligence arranged with the Presbytries and the general tendency of the ministry to crowd to the Capital were of enormous value in spreading the Kirk's point of view. Short of set proclamations the King had no means of making his argument clear throughout the country. Although in the letters of information sent to the Presbyteries for the dissemination (3) of Black's declinator the assemblage at Edinburgh called themselves "the commissioners of the General Assembly and ordinary convention of the brethren at Edinburgh" it is established that there were many more present than the General Commission and the Edinburgh Presbytery. Probably all those appointed in the Presbyteries

(1) C.V. p. 453

(2) Moyses p. 128

(3) It was the formal production of the Convention.

It was received in the Presbytery of Haddington Nov. 24th to be returned signed by 1st Dec. All accepted it

or Synods for the October 19th meeting had returned to the Capital (1)

Whether the barons were already in attendance upon the Kirk meeting ~~or not~~ is not clear. That some subterranean dealings had been in process is clear from the organized attack upon the Civil Government made on 22nd November. Upon no formal grounds, they presumed that the Octavians were the fundamental cause of the stringent attitude adopted to Kirk pretensions. It seems clear that this was the result of the jealousy of their old allies of the "ancient Nobility" Mar Glamis etc who had been displaced from (2) office by these new men. Black's case in fact had simply become an excuse for a vote of no confidence in the existing government: Conservatism and the Kirk against skilled and expert politicians and financiers who did not rely upon feudalism for gaining and retaining the King's support. The scheme of the Constant Platt had been one of their proposals and the obstruction had come from the feudal nobility. The Kirk was not accurate in making a counter attack upon a Council which was really the only efficient civil service which Scotland had had for many a long day.

In the constitution of Scotland of the time any claims to hold the Council responsible or in fact any organized attack short of direct force and seizure of the Royal Person was unusual. The charge they evolved was a definite statement of constitutional principle. They held that since "by the fundamental laws of the country the King was subject to his council" it was the duty of that Council to restrain him from an evil policy. The Kirk held the Octavians responsible either for stirring up the King to attack upon the Kirk or if this were not so blamed them for not "staying" him. This was a principle of government which was not in accordance with theory although the frequent minorities of (3) the Kings of Scotland might lend it some colour. The appeal to the feudal nobility (4) as the natural opposition was known or at least guessed by the Octavians in their response (5) They denied any attempt to favour a Papist policy or to attack the church. They had meant well by the Kirk by their financial policy but in the face of this opposition they were prepared to resign their places. "Let the King's majesty and his wise nobilitie see thereunto (1) Andrew Melville certainly was not of the first monthly committee but was one of the General Commission and also one of the Presbytery's representatives to the October meeting.

(2) e.g. Glamis had been displaced as Treasurer by Blantyre etc

(3) cf the theory of the constitution as expressed by "Thomas Middleton" appendix to Spottiswood's history. 1677 Prerogatives of the Crown are great; the power of peace and war the power of raising and arming the subjects (this the Kirk had openly transgressed) the power of the mint, the nomination of all officers both of the State and of War and of Justice (except some hereditary Sheriffs) calling adjourning and dissolving Parliament the giving of votes of Parliament the authority of laws, the executing of the law and the pardoning of offences. p. 51

(4) C.V. p. 462. Melville went to Mar, Bruce to Hamilton, and Argyle etc

(5) ibid.

In point of fact it amounted to a use of the phrase "His Majesty's government" and was one of the few changes in Government which was effected means other than mere capture of the Royal Person

The real trial of strength came with the royal demand to see both the letter of information sent to the Presbyteries and the formal commission from the General Assembly. Some of them certainly had right to be there by virtue of their commission but others certainly had none. When threatened with discharge from the town the Commission ~~creating a precedent~~ which was to be followed out in 1638 resolved to stay on despite any charge so long as it was expedient for the weal of the kirk. And to prevent disaster the commissioners of the general assembly with advice of the Council of the brethren resolved to summon full General Assembly for the second Tuesday of January. Until this met apparently it was their intention to defy the royal warrants

But the dangers of the Papist faction made them unwilling without some effort at conciliation to bring matters to an actual trial of force. In their attitude they were reminiscent of the old rival Parliaments of the early years of the century. Delegates from the Kirk meeting carried offers to refer the question of Black until the Papist were settled and a General Assembly settled all disputes. Although it was stated that the declinator was only so far as concerned doctrine, the most that the Kirk could propose was an amnesty on both sides until a General Assembly. The whole attitude was to exalt the Assembly as the judge between King and Commissioners, a statement that the King was not above the law of Assembly whatever the case might be in constitutional practice in Parliament. The implicit idea of the King as suitor at the Bar of the Assembly was tantamount to the claims of the Parliament of the XVIIth Century. As an exponent of Constitutional Theory on responsibility of ministers of the crown, and of Kingship, the Assembly was half a century ahead of Parliament. After continued debate the result was the renewal of summons against Black, the discharge of the Commission of Assembly as having no authentic warrant from the General Assembly (1) and the promulgation of the famous proclamation which virtually prohibited the attendance of a lay element at the church courts and cancelled all the joint arrangements for national defence. There is no doubt that this

(1) The King's case was a good one. He said that the alleged commission which they had produced did not extend to their consideration of such topics as jurisdiction not to make formal acts. If they claimed wider commission than merely to treat and consult he refused to recognize it as never agreed to by his Commissioner. The Commission said that their warrant was "to give in articles to King and Council and to assemble themselves to stir up the the faithful to prevent the wrath of God" Petrie states that their commission was to assemble as they found urgent occasion and to prepare articles to present to the King". p. 518 The Book of the Kirk contains no record of such a commission unless as we have surmised it was an additional function of the 19 Commissioners of Visitation

prohibition was the chief cause of the victory of the King over the Assembly. It was the fighting force of Presbytery which was forbidden to attend any convocations of the lieges organized by the ministry and presbyteries, and the inhibition extended to all estates, that "name of tham tak upon hand to convocat or assemble themselves in anie sort at the desire of the said ministers presbyteries or other ecclesiastical judgments under whatsoever pretext of assisting them in their defence when accused or in repairing to any law court or otherwise. The prohibition seemed to recognize that the attendance of lieges in numbers at least was no ordinary part of the Kirk juducarures. The barons for long had only attended in emergencies and the whole lay system was thus indirectly aimed at. Only (1) by special permission of the King were such convocations to be.

The discharge of the Commissioners was a discharge of individuals with an order to return to their pastoral duties an order quite in keeping with the theory of the Civil Magistrate as expressed in the Book of Discipline. The names mentioned were 16 in number they were to depart from the town within 24 hours under penalty of horning and rebellion. (2) The Presbytery of Edinburgh which could not so be discharged unless the whole Kirk government were prohibited was thus left in charge of the situation. The proclamation was ~~was~~ skilful in its terms. But the Commissioners were not yet overcome. On Nov. 27 they discussed the position in its constitutional aspect. The theory of the two Kingdoms was firmly established. They were indignant at the "controlling the Lords commissioners and annulling and discharging the acts of Assembly (which had authorized their meeting)" as though it was a judicature inferior and subaltern to the Secreit Counsell and Sessioun. The constitutional ideal of the Supremacy of Parliament was not considered. The position was barely tenable unless a definite ideal of a theocracy was contemplated. Their "Articles" given in because their commission stated that was part of their function defended their commission but contributed nothing further than an appeal to a General Assembly. Thus the issue would be fought Council against Council of the Kirk, Parliament against Assembly. In these articles was contained another constitutional problem which the King regarded as particularly seditious. At the end of their requests to the King was added what was simply an appeal the Council to control the King and by their counsel to recommend the referring of all difficulties to the Assembly. If the Council's vote went against him what was the King's constitutional position. If his Majesty's government decided in the Kirk favour could the King put all to the test by exercising a Royal veto. The Kirk therefore had a theory of a limited monarchy limited by the Kirk and Assembly but also by his own Royal Council. But the limitations came not from the *Parliament which nominally appointed these councillors but from a Kirk Convention who recognized no other right than "inspiration"

(1) P.C.R.V. p. 333

(2) P.C.R.V. p. 333

The Melvilles, Johnstone

"special licence and proclamation"

Dalglish Buchanan

Simson, Knox, Ramsay

Clapperton Law, Ferguson

Nicolson Sharp Blackburn Lindsay. Davidson.

* of The Council of 1489 accountable to Estates
for giving "true counsel"
Other members are merely
ratifications of the appointment of ruling nobles.

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When the Kirk delegates insisted upon the reading of their Articles in the Public Council which was sitting as a Law Court upon Black. (cf the close connection between Council and Session at this time) the King refused to read them aloud as being "intolerable" but after the departure of the delegates they were summarily rejected. From James experience of Raids and Counter Raids it was an unwise principle to advocate constitutional control of the Prerogative.

James dreaded the effect of the ministers invective against himself and his government upon the Edinburgh mob. Beyond definition of jurisdiction he meant no injury to the Kirk expressing a desire to pass over offences if Black craved pardon. He was anxious for conciliation and interpreted his proclamations as implying no discharge of any assembly of the Kirk, but referring only to convocations of gentlemen in arms. (1) He even seems to have agreed to refer all to the General Assembly. Whether the lenient attitude was only a pretence to induce Black to commit himself, or whether his reversion to his earlier point of view was really the work of the Octavians is not known. Probably their experience of the attempt of the ministry to control the Council had induced them to show the King the dangers to Government by Council Parliament and Estates if the Assembly was permitted to be the arbiter. The Constant Platt had shown the intention of the Octavians to include the Opposition within Parliament and if it was their influence which altered James it was probably on constitutional grounds. There was a sense of the theoretical supremacy of Parliament which persisted. It was better that this should remain so than that the Kirk which was so much less reasonable on matters affecting wealth and trade should attain the chief place. The ideal of the Presbyterian Estate was the "King, Council, in Assembly". But the "doctrine" of the pulpit induced conference again. A general tendency to reconciliation resulted in concessions on both sides. The proclamations against the ministers were altered in form to apply to the Papists, the King promised never to call the ministry before the Council again but only before himself in private or before a commission of ministers nominated by himself. The kirkmen promised according to their act of Assembly that they should not speak irreverently of the King and Council. But the case of Black was still remitted to a General Assembly.

The Commission of Assembly had remained in the town despite the proclamation, although some discretion had been exercised in that few of the proscribed ministers had been employed in the more vehement interviews with the King. The King's object in suggesting to send a circular letter to the Presbyteries is clear. He realized whence came the hold of the Assembly and the Kirk upon public opinion, but it is equally significant that the Commission censored his letter and prescribed its form even to dictating it so that their organization might not in any way pass out of their control. But this annoyed the King and once more he refused all offers as unsatisfactory and claimed that Black's punishment lay at his pleasure without reference to an Assembly. While the zealots imputed the change to the "Papist",

influence of Seton the President of Session, it seems clear that the alteration was due to the legal interpretation of the Kirk documents which had so many provisos that to the legal mind they were ineffective. Once more it was the Octavians sense of the constitution which influenced events. They were certainly giving "true counsel" according to their expert knowledge. The grievance of the Kirk was that that expert advice did not support **its pretensions**.

The convention by 8th December was augmented by commissioners from various parts and provinces of the country who had come in response to the letters of information issued by the Commission from time to time. It would seem that they met along with the Presbytery of Edinburgh which throughout had been the centre of communication. Thus as far as ecclesiastical membership was concerned the Convention of the Kirk was as large as any Assembly. What prevented them voting themselves into a General Assembly was the absence officially of a lay element and in face of the Act of 1592 the royal permission. Yet they had been prepared to summon an Assembly for a date in January with or without the Royal Consent.

The whole system of delay led the Commission to infer that conference was useless and resolved to fight with such spiritual armour as they possessed. Lee gives a good account of the actual proceedings (1). The constitutional significance lies in the fact that although the Commission undoubtedly meant to use its spiritual armour in summoning a General Assembly of all the godly, the King forestalled them by appointing both a Convention of Estates and a General Assembly to meet upon the same day February 5th 1597 and "resolve all questions standing in controversie and difference betwixt the civil and ecclesiastical judgment." Thus the final judgment would lie not with the Assembly alone but with a joint convention of co-related bodies representative of church and state. (2) If the Kirk could control its propaganda in its own interest the King was determined to use his power equally **unscrupulously**. He enacted that only such as recognized his authority should receive provision before the Platt. The "intelligence" of the Kirk at once sent out circulars to all the Presbyteries to urge constancy in spite of poverty.

The discharge of the Commissioners was at last executed on 14th December. The legal point was at once seized upon by the Kirk as being directed only against individuals and while the interdicted might obey the charge there was nothing to prevent other relays of the zealous to take their places, although the charge itself might be unlawful. The Presbytery of Edinburgh moreover was permanent. In default therefore of a higher court it was called upon to use its general commission as "the watch tower of the Kirk" to proceed against "such persons of highest rank known to be malicious enemies against the ministrie and

(1) Lee. II. p. 130

(2) The Convention it would seem was by the usual missive letters

cause of Jesus Christ" to the point of excommunication. It is significant that there is no mention of whether these are to be defined as Papists or not, and it seems clear in the light of later events that the weapon of excommunication was ready to be used against the Octavian Council who would not give true Council according to the Kirk lights. Bowes the English ambassador was doubtful as to how to proceed. His normal course was to support the ministry as a bridle on James various anti-English schemes, but the situation was **altered** in that Black had slandered Elizabeth and James might well put forward the claim that for the sake of his English interests he must prosecute the charge.

The commissioners in some form or other had sat daily for **over** 6 weeks. In some respects they closely resembled the Commission of Assembly of the Civil War period particularly at the crisis of the Engagement, but their commission was not intended to be a permanent one as was the later institution. But in their insistent watchfulness upon the Civil power the Council in the one case, the Committee of Estates in the other they were alike. Although Row claimed for the later commissions that because they were large they were therefore less tyrannical, but both in the XVIth and the XVIIth centuries the real power lay with an inner ring of extremists who were similarly reluctant to consider the practical problems of statecraft. (1)

Although the 16 leaders were gone the rest continued their agitations. Whether by direct warning or not, but almost certainly by no elective representation great numbers of the opposition noblemen were in town. Did the Kirk fundamentally believe that the Octavians were the authors of these troubles or did they only make this a prominent part of their programme in order to attract the collective of all those who had been displaced by them. That the Kirk received gladly the assistance of lords whom had they been in the opposite camp she would have most rigorously attacked. That the Kirk supporters were no more the godly professors than the Government party is a platitude. Lyndsay of the Byres who played such a prominent part in the actual riot and who professed such godly indignation in the cause was at the very moment underlying process for a particularly violent slaughter within the town of Haddington. (2)

That the Kirk was predisposed to suspect the Octavians must account for the obvious success of the transparent intrigues of those who were called the Cubiculars, those whose inroads upon the revenues had been materially checked by the finance of the Octavians. Those of the Opposition who misled the Kirk on this occasion were just those who most effectively were instrumental in organizing the real overthrow of the Kirk discipline. (3)

(1) MS Records of Committee of Estates in H.M. Register House collated with the records of the Commission of the Assembly Scottish History Society.

(2) MS. Records of the Presbytery of Haddington Dec. 8th and 15th

(3) Hume who became Earl of Dunbar, David Murray (became Viscount) Stormonth, Patrick Murray (the Apostle of the North) Sir Robert Melville. These also were of the new nobility but the great riot meeting had a large number of the old feudal Lords

Intrigues on the part of these Cubiculars resulted in alarms on both sides, and the formation of a guard of citizens for the protection of the ministry. The historic account of the riot shows the irresponsible character of the ministers "applications" in sermon. The sermon was followed by that extraordinary meeting in the Little Kirk for conference as to how the imminent danger might be eschewed. Balcanquhall said he had the warrant of the Kirk for convening the noblemen and gentlemen for the purpose. From whom did he receive this warrant? Such meetings had been directly aimed at in the Royal Proclamation. Was it a warrant from the Commission of the Kirk (showing that it was an organized attack upon the government prepared beforehand) or did he simply extend his commission as an individual member of the Commission. In personnel it might seem to be an extraordinary Assembly but the evidence seems to indicate that the meeting was rather local than national. A party meeting of the Lothian Fife and surrounding shires. The representative delegation which they sent to the King (2 Lords 2 Barons 2 Bailies 2 Minister) if godliness was the qualification was an unfortunate choice. The delegation showed that once more the Kirk had allied itself with a party which was no more reputable than that in power, that the article which was put first upon their list of demands was not the cause of the Kirk but was an attempt to control the personnel of the Council by insisting upon the removal of the Octavians, under pretext that they were responsible for the King's action with regard to the Church. But if this was a responsible delegation there was no need for the King's withdrawal to the lower Tolbooth. Spottiswood and the others must be right in stating that a threatening crowd accompanied them just as in 1587-88 the whole mass meeting attempted to coerce the King. It was only reasonable therefore that the articles should not receive consideration. The mob which presented them or the more responsible body in the Church had no constitutional position neither as a Civil Convention or General Assembly. There was in fact no assurance that the articles which they propounded were the general political opinions of the people of Scotland.

Significantly it was the crafts which assisted in the defence of the King, for the crafts had no means of making their views known either in Assembly or Parliament. The Kirk policy was that of the baron and merchant burgess and did not consider whether the Octavian government was an amelioration of the people's lot. The subsequent articles presented or at least taken to Holyrood after the tumult were political. (i) The removal of the Octavians (ii) The expulsion of the Papist Earls until they had satisfied the Kirk (iii) The return of the Commission of Assembly. Although authorities differ as to the names of those who were entrusted with the duty the absence of the burgess element was noticeable, it seems that lairds and ministers were left alone. The King by whatever means was gradually bringing the barons to collaborate in Civil Government rather than criticize it from without, Bargaive certainly made his own peace and the others had no wish to incur the charge of rebellion. The--

See Calderwood. V. pl 514, Row, p. 41 Spottiswood. III. p. 38
Cunningham. p. 438 etc.

What seems to be the accurate interpretation is that the civil opposition to the Octavians used the Kirk pretensions to hold the Council responsible for Policy, to attempt a minor revolution or at least a change of Government. The Cubiculars in power would be and were the last persons to admit such a claim of external control. Responsibility to Parliament they might admit but never responsibility to an institution outside the Civil Constitution. The cause had served its purpose. from the point of view of temporary expedient. The Octavians were about to resign, but that the Council about to be appointed in their place should recognize Ecclesiastical control was not to be tolerated.

Edinburgh formerly the centre of unrest in ecclesiastical affairs and the burgh most easily incited by the rhetoric of the group of ministers who occupied its pulpits and these of the surrounding parishes, became most subservient in face of the threatened removal of the Court and the Law Courts. (1) and was no longer prepared when its prestige as the Capital was threatened to risk all for a Church and Presbytery which were more stringent in their restrictions on trade and commerce than any civil court.

The Opposition or as Bruce called them "the godlie barons and other gentlemen that were in the town" needed a Leader. The party meeting elected Lord Hamilton whose views on toleration had formerly marked him out as particularly zealous. That the Kirk should be associated with such an election was a grave mistake, for it implied a formal statement of their position as a civil opposition, a party with fixed principles of foreign policy and of constitutional control of arbitrary power which the Higher feudal nobility could not comprehend. They were selfish opportunists. The Kirk had a fairly clear cut programme but remaining outside Parliament required an alliance either with a force likewise outside Parliament or a strong party within in it. But that the Party within Parliament would be guided by the external Assembly was by no means likely. (2)

The letter to Hamilton signed by four ministers of Edinburgh was for coping with the need "for a cheefe nobleman to countenance the mater against these counsellors" not against the King. It was a theory of the constitution for which feudal Scotland was not ready. Hamilton thought he would gain more by remaining in the Royal Favour especially since a change of Council was imminent. A council responsible to the Kirk was not to be contemplated.

(1) Cf. The MS Records of the Edinburgh Town Council in process of publication (edited by Miss Wood). The removal of the Court to Linlithgow, the Session subsequently sat in Leith. see the abject offers of the Town. A.P.S. IV. p. 104-105 1st Jan. 1597 to put all in the King's will, not to admit their ministers until reconciled to the King, those who should replace them should be bound to respect the King, any list of substitutes should be submitted to the King's approval. The situation has resemblances to that after the Porteous Riots.

(2) The choice of Hamilton showed that Bruce in particular was a political schemer. The constitutional control was combined with the old feudal idea of government by the nearest heir (cf The Duke of Albany) Hamilton had pretensions to the Crown (see Lane. V 421) N° Cui I 295-302

Bowes seemed to think that the majority of the people looked for a settlement from some kind of "National Council of the Estates and of the General Assembly" (on 5th Feb. though the date was altered). As early as December 14th 1596 he pointed out that the 1584 act was the stumbling block for it gave the King power to judge in all causes and the 1592 act only added the proviso provided they did not concern matters of religion doctrine witchcraft heresy etc. Since that time he said the ministry had had all ecclesiastical causes, but now the King was claiming that the proviso "does not take away the force of the former in regard the former act was not repealed." (1) Even at that time Bowes knew of the Band which was offered Galloway at Linlithgow which practically meant a recognition of the justice of the Act of 1584 which was reenforced in Privy Council (2) and in Parliament. Similar proclamations put obligations upon all Sheriffs bailiffs of Regalities Town Councils noblemen barons and gentlemen, i.e. the whole system of civil administration to apprehend all ministers preaching or praying against the King and Government and the congregations listening to them came under the same ban. The Act went straight to the root of the Kirk's power. Its facility for partisan propaganda. In the replies of the ministry to the bands and proclamations the principle of limited and constitutional government is implicit (3)

The warding and flight of the ministers had taken place before the records of Edinburgh continue the tale of the sadly depleted Presbytery. On the 28th December two commissioners from the King (J. Preston and G. Young) appeared with requests for the supply of the Kirks of Edinburgh until a General Assembly. This meeting of the Presbytery was not a normal one. It was augmented by "the rest of the brethren who were to come this day. The King had always recognized the powerful position of the (4) Capital Presbytery which seldom sat by itself alone. The ministers who went to Edinburgh on all kinds of business resorted there sometimes as we have seen Edinburgh used a vague commission to summon either representatives of Presbyteries or simply individual ministers by missive to advise them. The King had seized the opportunity to take the power of selection of these individuals into his own hands. Haddington Records supply further details. That the summons was to individuals is clear but the Kirk had formerly laid it down that when the King sent for a minister to come to give advice that minister ought to go. On 29th December

(1) Cott. Cal. D. II. under date Dec. 14th 1596

(2) P. C. R. V. p. 352. 21st Dec. 1596 cf. A. P. S. IV. p. 103

(3) cf. C. V. p. 525 "Separat the King can not be judge in all causes but ather in counsell or parliament wherin by the lawes and custome of this countrie treasoun and seditioun are judged by an assise. Upon a criminal fact may arise a slander deserving excommunication e.g. Bothwell. But the king was not judge of the slander. He had to "crave" excommunication of the Kirk.

(4) MS. Records of Edinburgh Presbytery.

Og

David Ogill the minister of Baro reported to the Presbytery of Haddington how "he being chairgit with the Kings Majesties letters had gane to Edr. among the rest of the brethren of ~~uther~~ presbyteries that wer chargit and convenit in the Eist Kirk upon tyisday the xxviii of this instant to give his consent for the furnishing the pulpetis of Edr. in respect of the absence of the ministers therof till the fyft of februar nixt"(1) The conference had agreed that two from each Presbytery of Lothian (2) should help to supply the vacancy and the lot fell on Ogill to begin. Although he asked the Presbytery's advice and was peremptorily ordered to put the whole account in writing he nevertheless preached on 1st January (see C.V.p.536) before the King. For doing so he was suspended by the Presbytery which passed a stringent act on the point. "Eforsamikle as great daunger hes ensewit and is like to ensew to the libertie of the Kirk be the privie dealing of some of the ministrie without comm:ission from the haill presbytrie quhair thai remane. The Presbyterie for eschewing of sic inconvenientis ~~ordanis~~ that na brother within thair boundis being chargit or sent for be his majestie or counsell tuche or subscribe ony thing or deale wth thame in ony matter belonging to the office of the ministrie without the avise and consent of the haill presbyterie lawfullie convenit to that effect and in speciall that nane tak upon hand to teache in ony of the pulpets of Edr. or subscribe the interlocutour of the lordis maid upon the occasioun of Mr. David Black under the pane of deprivation to be pronouncit against the persone contravenar quhatsumevar" (3)

Although the Convention of Jan. 1-6 was called a Convention of Estates it was rather an augmented Council and (4) burgesses were excluded. Its proceedings were merely confirmations of the separate Acts of Council, but in the attack upon the central group of Edinburgh both Town and Kirk most severe methods were adopted. From the point of view of the Edinburgh Presbytery the most important act was that forbidding the convocation of any Church Court other than the Kirk Session within the city boundary. De-centralization was further effected by the confiscation of the "Ministers Nest" where the communal life lent itself to plots. (5) The Civil Opposition at least had obtained some kind of reward for on 7th January the Octavians laid down their office. Their duties were unpaid and one of their number Blantyre

(1) Haddington. MS. Recs. 29th Dec. 1596

(2) *ibid.* under 12th Jan. 1597. They said he had no right to deal in a matter which concerned the whole Synod.

(3) *Ibid.* 5th Jan. 1597

(4) A.P.S. IV. p. 103 et seq. See Rait. p. 149

(5) James Melville describes the system p. 78 In Durie's house about 1580 at times of Assembly there lodged the Melvilles Smeaton Ferguson Arbuthnot etc and sum zealous godlie barrones and gentilmen.. and almost daylie all the collage was togadder in an or uther of thair houses. Lowson and Balcanquhall until their marriages boarded with Durie.

had already entered into negotiations with the Cubiculars and the ministry. Although unsuccessful from the Kirk point of view the position represents one of the few peaceable (or comparatively so) changes of Government by an expression of public opinion. That this public opinion was unjust and was hardly spontaneous because directed by the ministers propaganda was immaterial. A change had been effected without a direct capture of the King's person, although there was no attempt to make the Council responsive either to Kirk or to Parliament. The lingering regard which the ministers had for constitutional government is revealed in the explanatory letters of the exiled Bruce, who held that the actions of the ministry were justified by the fact that the practices of the Papists had been concealed from the estates and not revealed impartially in a full and lawful Convention. (1) The idea is latent of a Parliament representative of the people, but the Kirk was equally prejudiced in imagining that in feudal Scotland the members of Parliament would accept the Assembly's dictates. The principle of toleration of contrary opinions does not enter. In the Assembly itself the majority vote was suspect. James Melville (2) says "there was nocht sic a thing as careing away of anie point with a number of vottes an or ma...but matters indifferently proponit...by conference and reasoning discussit with large and sufficient tyme taken ...and all with ane voice in an consent and unitle of mynd determinit and concludit" Unanimity was an impossible solution in actual practice. The Parliament obtained it by excluding from summons those who disagreed with the government. The Assembly by the rhetoric of the zealots, in some cases by the persecution of minorities and most of all by the predominance of the Lothian and Fife membership which in the indefinite state of the Kirk constitution could overwhelm the unorganized opposition of individual Presbyteries of North South or West who had no means nor the wealth to support the numbers of delegates such as the central provinces sent.

In the meeting of the Presbytery of Edinburgh of 11th January 1597 Robert Melville one of the Cubiculars appeared with Royal demands for provision of Edinburgh, and for the delay of proceedings against specified Papists. At the same time a Bailie of Edinburgh produced his Commission from the King to charge the Presbytery to depart from the Town. The Presbytery accordingly went to Leith where the Lords of Session were also sitting.

The Presbytery of Edinburgh was no longer the Watch Tower of the Scottish Church.

(1) C.V. p.565

(2) James Melville Diary. p.77

Interaction and Points of Contact between the Assembly and the Civil Power.

III. Permanent Commissions and the Vote in Parliament

The reconstructive policy of the King with regard to the General Assembly and its constitution in relation to King Council Parliament and the Civil Power began with his use of the Presbyteries as units for obtaining definition on points which by their lax application had given the Assemblies of the past opportunities for exceeding their purely spiritual function. His 55 printed questions were disseminated throughout the Presbyteries to obtain some kind of plebiscite as to the true constitution of the Church. This opinion he apparently held might not be properly ascertained in an Assembly in which the Lothian and Fife representation dominated both in point of numbers and in the violence of their methods. These points were to be debated in the joint Convention Assembly which he had appointed originally for the 5th February eventually postponed to the last of the month. In the disorganization incident upon the discharge both of the Commission of the Assembly and of the Presbytery of Edinburgh no attempt was made to call that Assembly which the Commission had proposed for the 2nd Tuesday of January. In accordance with his theory he sent missives to the Presbyteries to attend, but the choice was left free.

Each province had its own methods of dealing with the question. Fife whose opinions were always under the Melvinian influence extreme, meeting on 8th February sent a deputation to the King to urge first that the contemplated Assembly at Perth should not be held at the King's date, but be delayed until the legal time prescribed by the last Assembly i.e. April in St. Andrews, secondly to protest that whatever an individual Presbytery decided in the matter of these constitutional questions contradiction of Acts of the General Assembly on the constitution was not permissible. (The King's point of course was that the defect in the Kirk's constitution was that no ruling had been set down on essential points). Why were they so nervous that the Assembly which was apparently to be free should overturn its own constitution? Were they afraid that without the active support of the barons the majority among the ministers outside the Lothian and Fife areas would vote for moderate recognition of the civil claims. Uneasiness was also evidenced in the request that the King prevent "any thing to be published in print touching the late proceedings" a request for censorship of the press (a duty divided impartially between Convention and Assembly) which was obviously a retaliation for the silencing of the ministry and pulpit propaganda by the proclamations, another indication of how the Kirk

realized that the chief source of its power lay in its almost unique control of public opinion.

In order however to have a formal opinion on the 55 points a committee of 8 (two from each Presbytery of Fife) was instructed to meet in St. Andrews on 21st February to draw up an answer which should show the unanimity of the four Presbyteries. The Synod prescribed the limited commission which was to be given such commissioners as the individual Presbyteries appointed. That commission was only to deal with the questions and to leave over all matters such as the Papist proceedings to a legal Assembly. This meeting they persisted in regarding as a Convention because summoned upon the Royal missive, on the analogy of the Convention of the Estates, just as in their precautions against change in the constitution they had cited the instance of a particular burgh which would not be permitted to call in question an Act of Parliament. The analogy between the Kirk Assemblies and Parliaments and Conventions was perhaps closer than they themselves realized. The King however used the parallel to obtain control of the ruling Committee of Assembly in just the same way as he had obtained control of the Committee of the Articles of Parliament.

Whether in face of the dubious position created by the proclamations which might or might not exclude a lay element they expected the barons to attend in force or whether they merely calculated upon a large number being present at the Civil Convention at the same time is not clear, but that they did count upon a certain amount of propaganda among the barons and noblemen that shall happen to be there convened is certain. (1)

With these restricted instructions the Presbytery of St. Andrews on Feb. 26 1597 appointed its delegates. These were The Rector (Andrew Melville) the Moderator (Dalgleish) and James Melville "for satisfeing of the Kingis Majesties bill" but other three were appointed apparently as Assessors "to assist the common cause" (2)

The Synod of Lothian summoned as had been the Synod of Fife by representation to the late moderator by individual (3) Presbyteries does not seem to have laid down instructions. It was the Presbytery of Edinburgh which imposed its own restrictions which were followed out or independently asserted by the other Presbyteries. Perhaps the presence of the 3 Royal Commiss:

(1) C.V. p. 581 A mass supplication was contemplated for both Barons and ministry

(2) Pres. St. Andrews MS. 26th Feb. 1597 "ordains the most suitable men to be sent to St. Johnstoun for that meeting viz. The Rector the Moderator and James Melville for satisfeing of the King's Majesties bill Mr. Robert Wallace, William Welwod (master in the Old College) and John Carmichael to assist the common cause

(3) Haddington sent Walter Hay to the Edinburgh Presbytery to suggest that a Synod should be called. Hadd. MS. Recs 12 Jan. Edr. MS. Recs. 18th Jan. The Synod met on 1st Feb. It agreed to supply the Edinburgh pulpits. On 20th Jan. the Presbytery of St. Andrews in the same way had agreed with the Presbyteries of Cupar and Kirkcaldy that a Synod should be appointed. (MS Recs.)

Commissioners prevented precautionary measures but it is probable that although it was known that these questions were in the air the first official intimation of the calling of the Convention of Assembly was given in the Edinburgh Presbytery 8th February. Why the Presbytery should enact that in future none should remain in the Presbytery save actual ministers and those upon the exercise is doubtful. It may have been by some order of the King which is not elsewhere extant for the same charge was given by the Provost of St. Andrews to the Presbytery there in July 1597 although certainly in this case the express object was to exclude Andrew Melville. That the Edinburgh Presbytery should enact it amounted to a practical exclusion of a normal lay element, but the lay element in the Capital Presbytery had for long been purely hypothetical except for return of members to the Assembly and not always then. Laymen upon whom the constitutional importance of the Assembly as a representative body rested were seldom regular members of the Presbyteries.

Edinburgh's limiting commission seems intended to create the impression that the Convention was not to be a fully representative one(1); certainly the King's letter of summons deliberately omits mention of a lay membership but this it was felt would be compensated for by the presence of the Barons at the Convention, but in their "limitations" the absence of the lay element is not stressed as a reason for the illegality of the Convention. The restrictions imposed were practically identical with those imposed by the Synod of Fife and the inference must be that in expectation of this meeting a pre arranged form had been drawn up. Both parties had been preparing attack and counter attack. In appointing Lindsay Galloway and Duncanson the Presbytery made a politic choice. (2)

Haddington on 22nd February nominated only one representative, although the King's letter suggested 2 or 3 and that representative was the notorious Walter Hay who however did not fulfil his commission on account of sickness. (3) an excuse which on a later occasion the Presbytery would not accept

The decisions of Fife as the exponent of minority rule were sufficient to show in what a vague state the constitution of the Kirk despite its Books of Discipline had been left. The insistence upon the "best". As the King said to James Melville the most seditious practices were carried on under the name of the best men. The criterion of judgment was at the discretion of the individual and might lead to the most hopeless anarchy

(1) "To diverse Presbyteries within the realm among others Edinburgh (C.V.p.581) MS.Recs.8th Feb.1597 Petrie.1 529 Sp.III.p.41

(2) ibid. Lindsay was never unacceptable to the King. The others were ministers of his own Household

(3) Conventioun at Perth.. Anent the sending to the Conventioun at Perth The presbytrie thought guid to (send their) brother Mr. Walter Hay to att(end) Ne ecclesia detrimenti capiat ...

(and to protest) in the contrar...need be 22nd Feb.MS.Hadd.Recs mutilated

If the "best" dreaded a majority vote fully representative of all Presbyteries, their fears were well grounded. There had been evidence before of a party in the Church which disapproved of violent measures and partizan policy (cf. Craig in 1571) and also of a party which deliberately stayed away on that account

The alteration of the Place of meeting to Perth also made the Assembly more central, and the King's policy was rewarded by the attendance of the Northern ministers and those of Angus and Mearns who up to this time had been seldom seen at Assemblies owing to their poverty and to the expenses entailed for the long journey to Edinburgh which had become the accustomed place of meeting. Why Calderwood and Melville should regard the presence of these ministers who represented the greater part of the country outside the Lothians and Fife, as a great evil is not consistent with the principle that the Assembly was the true Parliament of all Scotland. There must have been design in the formal notice of personnel as the assembly of commissioners from all Presbyteries

(1) That the King should send his "apostle of the North" to inform them of the recent events in Edinburgh is a clear proof that the

(2) Lothian group and the Commission of Assembly only informed the adjacent Presbyteries and such as they knew supported their policy. The King recognized that their propaganda and informations were of a party nature as they themselves had practically admitted by their attempt to control the freedom of the press. The North was very often neglected in the schemes of Assembly which always saw that in the bargains with the Civil Power the provision of Fife and Lothian was first attended to. The very Commissioners for the North and South and the more distant parts of the country were often members of the Edinburgh group e.g. Pont -Moray Lindsay-Galloway. It seems clear that the Northern ministry recognized the defect of the assembly in this respect and viewed with no little jealousy the pretensions of the Lowland zealots. The "lobbying" and the introductions to the King which irritated the zealots were the other side of the picture. The Edinburgh group too long had had the full control of dealings with the King. The advice of the North had as much claim to "inspiration" as the invective of the Midland ministry whom they stigmatized as the Popes of Edinburgh. The King was quick to work upon the professional jealousy roused by the excommunication of

(3) Huntly by the Edinburgh and Fife group when the duty should really have belonged to the Synod of Aberdeen alone. A "reasonable" attitude was invariably inferred to be the result of "corruption" If the King did pay the expenses of the distant group it was necessary to take some means for breaking the close ring. It had not apparently been the rule for expenses to be paid except by the individual himself until the King took up the question. James Melville ingenuously gives away a good deal of information as to the obstructionist methods of the Fife group. His rhetoric had convinced the meeting almost to a unanimous vote had not persuasion by equally potent rhetoric altered the decision

(1) If from all Presbyteries however why did James Melville (p. 405) register the vote as 11 Presbyteries for and 8 against. There

(2) were 50 Presbyteries in Scotland. Sp. 11 p. 45

(3) ibid. p. 46

and on a vote the extremists were defeated. No doubt the lack of Andrew Melville who although appointed one of the delegates was unable to attend owing to a Rectorial election, had something to do with the ineffective attempts of the minority. James Melville withdrew.

The day after it had voted itself an extraordinary General Assembly the convention was summoned into the meeting hall of the Convention of Estates. Of the lay element which they expected to be present only 6 barons and 9 burghs were members of the Convention of Estates. Had the normal eldership of Assembly been present we should have had an instance of Government and Opposition meeting together in the fashion of a modern Parliament. Even so it implied a recognition of the representatives of Presbyteries as a Third Estate. The reason for this was the unsatisfactory answer which the King said had been given to his proposals in number which dealt with the chief controversial points of the 55 questions (1) These 13 points had been considered by a committee of 21 ministers one of whose contentions was the important one that "no laws be made without the consent of the Kirk as the Third Estate", an admission that the Kirk as a whole was not averse to receding from its original position as a rival of Parliament on condition of receiving adequate representation within that body.

Accordingly the summons came to the whole body to attend with the Estates to reason the points with the Estates, but in doing so the Assembly took the precaution against the unguarded session of privilege and possibly against a common vote, of protesting that "this our meeting be not esteemed as though we made ourselves an assembly with the Estates or yet do submit any matters ecclesiastical either doctrine or discipline to this Judicature". After conference they claimed that they had the right to depart to their own meeting house to debate the matter by themselves and to vote upon the questions.

Their vote therefore was to be the vote of an Estate and not of individual members of the Convention of Estates where a majority of individual votes obtained. It was also a claim to the right to deliberate apart as a separate estate a privilege common to the other Estates. There was thus still the latent idea that the vote of the Kirk must be or at least appear to be a unanimous one. Normally these separate meetings of estates dealt with business concerning their own Estate but the question here was a wide one and the principle was simply that which Calderwood describes as infringed in 1621 when "the noblemen shires and Burghs were restrained from the use of their ancient privileges to convene by themselves in time of Parliament for advising reasoning and preparing themselves the more deliberately to vote in public". The Assembly in this case did more than that; it claimed to vote and conclude apart. It voted if registered at all in the Civil Convention would be the unanimous vote of a complete Estate

(1) B.U.K.p.893 It was a curious confusion of the ideas of the Kirk as an Assembly outside Parliament and yet wishing to influence that body by having representation within
(2) cf. Rait. pp.399 402-405 406.

Their protestation was accepted and reasoning and argument followed at the end of which the Assembly retired to vote and conclude returning to the Convention with their written answers which were presented "by David Lindsay the Moderator and the haill ministry of the same assemblie. It would seem that each article was reasoned again in the Convention of Estates and accepted as a whole although the "alterations through pretended haste" mentioned by Calderwood may represent the minor alterations in form etc of the Convention before registration among the acts. It was decreed that these decisions should have the full force of Acts of Parliament.(1)

Before its departure the Assembly(ere it "skailed") presented "certain petitions" to the King that since the convention had been so successful, a royal proclamation should be promulgated explaining this success and the unity existing between King and Kirk with an abolition of all laws contrary to the liberty of the Church and significantly invoking the King's protection for all the ministers who had assisted in these modern measures. In the proclamation which was emitted it seems almost certain that the moderates dreaded the zeal and the agitator propaganda of the minority which exercised such power with the unruly barons.(2) To prevent any such violent measures as the moderates suspected might ensue, once more all extraordinary meetings and conventions at the call of the ministry were forbidden such as were sanctioned at the times of the Armada and the alarms of the Spanish Blanks

(1) See A.P.S.IV.p.112 B.U.K.p.896 The variation of reply is not great.

(i) King suggested. That the constitution of the kirk be not rigid provided discussion were done in the proper place 1st answer as drawb by the 21 ministers. It would be unwise to make the constitution unstable but they promised consideration to any reforms suggested by the king, if in the same way the Kirk might discuss the acts of the Conventions called by the King. i.e. reciprocal privileges to discuss affairs of Kirk and State

(21) In discussion of civil affairs no public rebuke was to be permitted, but only private representations to the King.

This in the reply introduced the question of attitude to acts against the Kirk which might be made in Parliament and insisted that no such act should be made without the consent of the General Assembly-the third Estate being the Kirk. If no remedy were provided it was held just that ministers and the whole organization of the Kirk should speak against such laws. They professed ignorance of "affairs of State" or of interference therein. In the Act of Parliament it was stressed that not the individual ministers but the authority of Presbytery Synod and Assembly should be called in before rash accusations were made.

(iii) The Third point was one on which the King had already given his opinion e.g. in 1586 but which nevertheless had remained one of the most powerful weapons of the Kirk which the King himself had ~~used~~ in the case of Bothwell

While the Papist Earls were admitted to conference with the Kirk upon which report was to be made at the May Assembly by Act of Parliament they were warned out of the country before 1st June. Although the zealots lamented the concessions and the victory over the Kirk, producing all sorts of technical informalities in procedure to prove the illegality of the meeting, it seems clear that the Royal victory was not so unqualified as they alleged. The clear point was the use of

i.e. summary excommunication. This he now asked should be abolished, the minimum period being 3 weeks after first citation. The assembly of Montrose 1595 had suspended summary excommunication temporarily pending full discussion and since this was no ordinary Assembly these reasons had not been investigated and in the final act the point was referred to the next assembly.

- (iv) No public rebuke it was claimed should be made against anyone unless he was fugitive or found guilty by a civil court or excommunicated. The Kirk however argued that by these three regulations the whole field of "notoriety" was not covered. There remained contumacy and open crime such as murder and immorality. In the final act contumacy was accepted.
- (v) On the question of public remark upon affairs in general the minister was asked to confine his attention to local affairs and (vi) in the same way Kirk Sessions Presbyteries and Synods were to censure only their own residents. To these non committal answers could be given.
- (vii) All summons were to be for a particular charge and not on a general warrant of investigation and on the remaining points general compromise was effected.
- (viii) No minister in an important town was to be chosen save with the consent of the King and the congregation.
- (ix) The important 9th point prohibiting conventions of ministers save in their ordinary Presbyteries and Synods, was not agreed to in the first draft but was sanctioned in the Act of Parliament.

On the other points a general amnesty was called and committees of ministers were appointed to consider the remaining 55 problems. On the problem of the Papist Earls conference was admitted report being made to the next General Assembly, which was to be called by Royal letters although according to

(?) Spottiswood simply in accordance with the Act of 1592 (III.55)

(2) See A.P.S. IV. p. 116

direct contact with the Civil Power not by commission nor by conference but by debate and reasoning by the full Assembly in presence of the full Convention, royal nominees though they might be. What grounds did Melville have for stating that the articles in final form were never discussed or voted unless he means that the acts as registered in the Convention records were not submitted again for examination by the Assembly. It all amounted to the old point which of the two Conventions or Assembly had the final scrutiny. By deliberately protesting that their meeting was apart from the Convention the Kirk apparently robbed itself of this right of scrutiny. The position was full of contradictions. If the Kirk and Synod of Fife preferred the vote of the "best who are commonly not the most" in this instance where a majority vote was stressed and when the Moderates obviously regarded themselves as equally entitled to the title of the "best" it seems that the attitude of the minority was simply that of a clique which while the Assembly was composed largely of their own supporters did not trouble about such points of the constitution nor as to whether vote should be by Presbyteries or by individuals, but now displaced were inclined to regard definition of the constitution as corrupt. The Popes of Edinburgh and the prophets of Fife had long controlled the majority vote the decisions of some of their extraordinary conventions had often been purely sectional and the composition of these meetings had been without reference to the whole number of Presbyteries but affected only the adjacent counties; on occasions when members from more distant parts had been present they were casual attenders and had no instructions from their Presbyteries, their presence being frequently only accidental as for attendance at the Platt or on civil business. With some ground therefore the Northern ministers complained that the ministers of Edinburgh and the Southern parts including Fife had "usurped the whole government of the Kirk". The position is analogous to that which arose in the next century between Protesters and Resolutioners when the same arguments as to minorities and as to who constituted the "best and wisest" arose "Inspiration" was a dangerous thing to measure. Often it was (1) tantamount to sheer aggressiveness. Could Lindsay not have alleged "inspiration" for his actions when censured by the Synod of Lothian for not using his commission according to its limitations. The responsibility of Commissioners to their constituencies was something however which must be respected. In the Estate of the Burgesses in Parliament it was established but no information is to be had as to the procedure among the barons and whether the Shire Conventions imposed rigorous rules of policy apart from the General Meeting of the Estate of the Barons.

(1) See the Register of the Consultations of the Ministers
S.H.S.

The attempt at exercising the spell of the best and wisest in what must have been intended to be a rival General Assembly (cf that of 1650) was abortive. The numbers were so flagrantly a minority of the kirk that the attempt was given up. (1) and by changing their date to the King's Assembly in May they virtually gave that its full claim to legality even in the eyes of the rigid constitutionalists. Fife Synod was there and a few from Lothian Perth and Stirling. Did these come as individuals or as commissioners from their Presbyteries. Were the Presbyteries divided among themselves as individuals or did each Presbytery adopt the attitude of its majority. Edinburgh records give no details (blank from 29th March to 21 June) Haddington only records the election for the May Assembly and even St. Andrews is silent. The King however had conceived the method which he later (1606) adopted with regard to the Committee of the Articles in Parliament, and nominated the Moderators Assessors in whose election he had at various times been interested (see supra) His policy with both bodies when he was not using the one against the other, was the same when it came to the strengthening of his own prerogative.

Limiting commissions therefore from the individual Presbyteries would not be very effective. No details of the personnel of the Assembly of May are available but as a Convention of Estates was being held at the same time in the same place it seems to be clear that such lay element as there might be would be limited to the personnel of the civil convention, since the lairds themselves were not at all sure of their position in the Assembly in the new state of affairs. Haddington sent three ministers only with instructions "to resson vote and conclude in all things nocht prejudiciall to the Libertie we have bene this monir zeiris and are presentlie in possessioun of and na furder" Nevertheless they expected more ministers than their official delegates to be present, and delayed the next meeting of Presbytery accordingly. (2)

Calderwood complains upon the new fashion of Assemblies in which all the business was prepared beforehand in the King's cabinet, but the opposition still remained the Opposition despite control of the Assessors. The majority vote was still suspect but pressure of business would never have permitted of the majority vote which was in reality the Fife and Lothian vote. Control by the King was no worse than the hectoring methods of the zealots and the roll call of the commissioners could be divided on the two party system. The Kirk could now no longer pretend to include the state, but "Kirk and Religion were framed to the politick estate of a free monarchie" (3)

(1) See B.U.K.p. 920 J.M.p. 412

(2) Haddington. MS Recs. 27th April. 1597 Meghie, Carmichael Walter Hay; In respect that ane guld number of the brethren is to be away It is thought meit that thair be na exercise quhill this day fyftene dayis (24th May 1597)

(3) James Melville p. 414 He has a supreme contempt for the majority vote.

* No list of Assessors is given. The King certainly appointed them in the next Assembly. Probably also in this.

The Convention of Estates which met on 13th May contained 6 Earls 7 Lords (two of whom were Bishops Dunkeld and Aberdeen) 7 Lairds and 13 burgesses(1) The position was one of bargain not altogether on religious points.(2) All who maintained a moderate policy were according to the Melville view and that of their faction either weak or corrupt. While scorning the dealings of the King with the Northern ministers they were just as ready to express their opinions when the King called for them. The hectoring of Andrew Melville was not to be tolerated from an individual who at the most was but the mouthpiece of a fallen government. Davidson who was too old to be a delegate from the Presbytery of Haddington in vain advocated severe measures against the Papist Earls. The Presbyteries of their own native districts whether influenced by a latent feudal loyalty or not was prepared to absolve them, and they had the legal right to try them subject to the approval of the Assembly. Bargain entered once more in the proviso which the Kirk made for the protection of the "gentlemen vassals" who under the Kirk leadership had been prepared to march against the Earls in spite of their feudal obligations. These Kirk Barons in the North were probably in a minority but the provision is in itself an instance of the political power of the Kirk used for class benefits.

The recognition of the March Assembly as lawful on fairly plausible grounds(3) and the procedure to definition of the constitution on the lines of the King's questions proved the fatal blow to the Zealot minority. For it was agreed that the era of the individual and the group system was at an end. The minister was to be restrained from all jurisdiction save with the consent of his session Presbytery Synod or General Assembly, and he lost his power of nominating the session which in some places had been a notorious abuse. Even the Presbytery was ruled out for all session were to be elected by their own congregations an advance in popular government which the zealots did not approve. In point of fact however the practice remained very much as it had been, but it had the obvious advantage of providing in theory at least that any lay element in the Assembly should be more representative of the people and less of the Ministers' faction. Throughout the Kirk organization the majority vote was established although it had to be a clear majority and in cases of a narrow margin a re-discussion was appointed to take place. Vote particularly was stressed in the reorganization. Whatever system had prevailed before the Northern ministers who now held the balance felt they had a grievance against the late leaders. The whole system was a clarifying process to prevent the unofficial tyranny of individuals which would seem to have prevailed. Uniformity and greater formality were insisted upon and generally a limitation of the pretensions of the Kirk to more obviously ecclesiastical matters. The assembly obliged

(1) A.P.S. IV. p. 118 (2) e.g. Lord Lindsay's restitution was the price of the conversion of his relative Thomas Buchanan. The return of the ministers of Edinburgh in reward for the recognition of the Perth Assembly.

(3) i.e. that at one period of their negotiations the Commission of the Kirk had asked the King to call an Assembly

itself to consult the King on all matters of importance raised in its meetings particularly those which had any bearing upon the State and that all important Acts of Assembly should be ratified in Parliament and by the King so that they might have better execution with the implication that without the Royal sanction such acts would be of little effect. It was the King's effort to break down the Presbytery's organization and exalt such civil administration as could take its place.

The King however had learned from the procedure of 1596 December how powerful a commission of the Kirk could be, and he resolved to use this general commission and power for his own purposes. In the presence of the King in the 16th Session there was elected in the Assembly a new Commission to convene with the King as he should appoint for general consultation upon all Kirk affairs, for settlement of stipend this combining the general commission of the platt, to present petitions and complaints and generally to deal on all points which required negotiation with the civil power particularly for the "interteament of peace and obedience to his majestie within the realme". The commission must have been on almost similar terms with the previous ones which had worked so much mischief although no formal catalogue of the power of the extremist commission of March 1595-96 seems to exist. The work allotted them for the platt is almost similar to that given to the former Commission of Visitation of 1519 which must have pretty well corresponded with the "General Commission" (1)

The idea was by no means a new one. In 1594 the King had asked the Assembly to nominate such a commission representative of the principal Presbyteries and the Assembly had consented that it should wait upon the King in time of Parliament, while the zealot members of it such as Andrew Melville presumed that they and they alone were the legitimate means of communication between the Kirk and Civil Power. There was therefore plenty of precedent. The real power of the King in Assembly began when he could combine the system of Commission with the Privy Conference and thus both within and without

(2) the Assembly the same group of persons might rule all. Although his definition of the constitution had been directed against a group system led by the Melvilles and Edinburgh, he supported that group system to which the Assembly lent itself as long as the Group was composed of the "Moderates". It seems quite clear that apart altogether from the "bribery and corruption" charges levelled against them the action of the Northern ministers showed the presence in Scotland of a party which did not share the pretensions ecclesiastical and political of the Lothian and Fife group, but which was too timid to make its opinion known. One surmises that the Presbytery as a voting unit was not a general rule otherwise this party would have been in evidence before this "Godliness" as a criterion for voting must have meant that the vote was seldom taken as the zealots themselves approved

(1) B.U.K.p.929 see Cunningham p.443

(2) J.M.p.417.

This commission consisted of 14 ministers, but whether the number has any connection with the 14 appointed in Assemblynt Convention of March 1596-97 is not clear. (1) In their personnel there was nothing particularly suspect. All had taken prominent parts in the late troubles. Six of the 14 had been officially discharged as members of the former commission of Assembly which had made the trouble of December and all the others had been nominated members of the central committee of November. From the choice there is nothing to infer that they were nominated by the King. In spite of the King's presence the Kirk would seem to have chosen them for herself. Was their subsequent career the result of a tendency implicit in the claims of the ministry or the leading group rather than due to the machinations of the King. If these claimed to "inspiration" formerly they had as much right to do so now when not in direct opposition. The request for vote in Parliament was at least as "inspired" as their earlier pretensions to control the Council. If the business was prepared now by this Commission beforehand and "concluded by majority of purchased votes" it was at least as frequently and normally prepared by the Presbytery of Edinburgh in former uncorrupt times. The learned "reasoning" which the Melvilles lauded must sometimes have been obstruction of business until the rhetoric of the best prevailed. The threatenings of Davidson and the elder Melville must in fact have been some kind of intimidation. If these divisions were fostered by statesmen as Calderwood states it proved that there had been diversity of opinion which had not hitherto been expressed. Melville calling the group a "few court ministers" was therefore not accurate. The majority of the group had been among the leaders of the Kirk in the past and if they were now "so manie ambitious spirits thirsting for gain and glorie" that type of ambition must have been a common characteristic. There was still in Scotland a certain glory to be obtained from flouting the King and attacking the prestige of civil government.

The commission being in General terms was protested against vehemently when it was used to cognosce upon cases which had never passed through the usual process of appeal through the church courts. The whole presbytery of St. Andrews (2) went in a body to Falkland to protest against the intervention. In point of fact the case which caused so much trouble was practically a simple instance of slander of no high order (3) Their general commission on the analogy of the former ones

(1) Alex Douglas, J. Nicolson, Gladstones Buchanan, Rollock Pont Lindsay Galloway Duncanson, Sharp, Porterfield, James Melville W. Cowper, J. Clapperton.

(2) Sp. III. p. 62; Pres Recs. MS St. A. 16th June. 1597 "all the brethren ar requestit to be in falkland the day of the convention They remained there over the 23rd

(3) Wallace in his sermon had called Lindsay of Balcarres the Octavian a "briber" Sp. III. p. 63

included the duty of visitation of the Universities. Knox at a very early stage had warned the Kirk against the bondage of the Universities. The King by visitation of the University attempted to control the representation of the General Assembly. Visitation had formerly been by joint commission of Kirk and State. Now it was the same principle which prevailed with the addition of the King's Majesty himself. It was decreed that henceforth Rectorship should be for one year only and that the same person could not be elected again save after the lapse of three years. It was proved according to Spottiswood that Melville had been negligent in his collection of the college rents and that his divinity lectures had been mere political discussions. When we consider the multifarious tasks that Melville was appointed to do and those which he felt also inspired to undertake there must have been some truth in the statement despite Calderwood and James Melville's denials. A system of reform was brought about by the appointment of a special Council consisting of the Chancellor the Conservator Colluthie and three commissioners of the General Assembly. It was decreed that no Regent Professor or Doctor of Divinity should henceforth sit in the Church Courts upon matters of discipline, and their position upon the Assembly which had remained undefined as to number was appointed to be supplied by the election of one man chosen by this Council from a list of three Regents and Professors and this representative was not to be employed two years consecutively (1) The records of St Andrews contain several references to this change in the constitution of the Presbytery. (2)

It was in anticipation of the fall of the St. Andrews group Melville Black and Wallace that the Edinburgh ministers were permitted to return on conditions. By August 9th the Presbytery of St. Andrews was back in its normal place of meeting in a very different frame of mind from that in which it had directed the former policy of the Kirk. They were careful to infringe no rights either of other Presbyteries or of the Commission of the Assembly and for long their records give no details of any business other than the announcement of the text of the exercise (3)

(1) Sp. III. p. 609. C. V. p. 647

(2) Pres. Recs. St. Andrews. 7th July 1597 James Melville as Commissioner of the Assembly asked that the book of Presbytery and Session might be produced for examination before the King and Commission. On July 15 1597 Nicolson and Buchanan in the name of the King and Commission charged the Presbytery to accept John Rutherford as one of their members. The Presbytery could not approve the reduction of their own decret in depriving him. On the same date the Provost of St. Andrews intimated to the Presbytery that he had received a charge from the King not to permit any to sit in the Presbytery as judges in discipline who was not an actual minister. Andrew Melville as one of the exercise was still permitted to attend although not for discipline. Aug. 4th he complained that students in theology were debarred from gaining experience. The Presbytery appointed "the maist gratius of their number in court viz. Gladstones and James Melville being also of the commission to intreat his majestie and the remanent commissioners for remeid.

The pulpit propaganda being now in its most virulent form suppressed the minority had now recourse to the press which formerly they had been apprehensive of the King using as a counter blast. The letters and ballads of Jock up a Land which professed to be the complaint of the "commons" were purely the production of the defeated minority, for the commons of Scotland if local records give any indication were supremely apathetic on these points of doctrine. In its struggles over legal rights and pulpit slanders the cause of the poor commons was forgotten by the Kirk. These pamphlets were therefore simply party literature and no replica of the famous Beggars Summons of 1559. One of their contentions was that the appointment of these 14 Commissioners was at the suggestion of the Octavians. Lindsay certainly in his Constant Platt had shown the necessity for a permanent committee for the purpose. Jock up a land who was intended to represent the poor labourer was convinced that if the Commission "resisted lawfully unto our christian prince, his Majestie had been winne er now to have submitted himself to Christ's kingdom alwayes". The idea still persists that it is the Council which is at fault and that it is their advice which ought to be controlled. But the Commission of Assembly had attempted its final effort of resistance to the Civil Power in December 1596. It was impossible even for the most hardy to resist except under pain of treason. And that the zealots did contemplate treason is clear, for they "held themselves no more bound to the King than he was to Jesus Christ". Their remedy was a convention of the Kirk of Scotland with some of the well affected subjects to concur with them to put in order things disordered by his Majestie and his wicked Counsellors, It was in fact an assertion of the right over the King and executive, not of a Parliament, but of an Assembly of the Kirk and its armed supporters.

The great question which, regarded as corrupt by the zealots had yet been implicit in the Kirk demands to control

Note contd.

On August 17 Andrew Melville brought the subject up once more and on September 1st it was agreed that a supplication should be drawn up by Andrew Melville Robert Durie and John Carmichael that the doctors and students of theology be admitted to the Presbytery the one to vote the other to hear. Sept. 17th Gladstones and James Melville were again to urge the King and Commission to allow the students to hear the exercise of theology and discipline and the masters and Professors of theology being doctors in the Kirk to vote. It was not granted however although after some time they returned for the exercise alone but not to sit as judges

- (3) Pres. Recs. Edin. MS. They only absolved the Earls who were already exiled from the civil horn, upon the testimonial of Rollock the Moderator and leader of the commission of Assembly and warrant from the Earls own Presbyteries.

the ecclesiastical vote in Parliament, was already in the air. Parliament depended upon land tenure. An ecclesiastical Estate must hold lands therefore and the real problem of the vote in Parliament had always involved the problem of reconciling the spiritual function with the tenure of land and consequently a considerable amount of civil jurisdiction. The Kirk had held that the Assembly should control the vote and that the members should hold function within the Kirk. Function was not defined **statedly** as preaching and administration of the sacraments until 1587 and it is possible that the lairds thought that they might obtain place in the Parliament as representative elders of the Kirk. The idea however had become increasingly clear that the Kirk as a Counter Parliament of all Estates was not effective without the active support of the Lairds and since 1594 their ordinary means of representation had been in force although they had not yet used their power to full advantage. Grants of lands and tacks of teinds and the stringent proclamations of 1596 had persuaded and compelled them to withdraw their full support from the Kirk. The prestige of Parliament was now a concern of the Lairds and while there had been only a few present at the Conventions which met simultaneously with the two last Assemblies there is nothing to suggest that a lay element attended the General Assemblies. The curious desertion of the ministry by its lay element had something to do first with the Melvinian ideas of the superiority of the ecclesiastic over the layman, and secondly with the enactments of the King in prohibiting the attendance of any save actual ministers at the exercise of discipline. The laymen were already deprived of vote in affairs of doctrine, and since extraordinary conventions were forbidden it seems clear that the attendance of the lay element in Presbytery and elsewhere in the Higher Courts was improbable as in fact in practice it had long since fallen away except in extraordinary circumstances.

The vote in Parliament was raised in the Parliament of December 1597 only the first Parliament since that of 1594. James Melville tells us that he smelt out Episcopacy in his visitation with the Commission of Assembly in the North. He must have given the alarm in the Presbytery of St. Andrews, for on December 8th a curious entry was made. The Commissioners of Assembly would by their commission be expected to be present to present petitions to Parliament King and Council and it is not surprising to find that Gladstones and James Melville went to the Parliament. But the full list given adds three members of Presbytery who were not upon the Commission of Assembly John Cathmichael Alexander Forsyth and Nicol Dalgleish who were appointed to go "as commissioneris to the Parliament in case a Generall Assemblie suld them be". (2) Why should they expect a General Assembly when the last Assembly had fixed its following session by the King's consent for May (although it was altered to March by King and Commission). Did they expect an extraordinary

(1) Between 1594 and 1597 only nominated conventions had met.

(Ret. of Names)

(2) Pres. Recs. St. Andrews MS. Dec. 8th 1597 Parliament met 8th & 16th

Assemblies in the old manner or did they go purely as assessors (1a) to the Commissioners of the Kirk. What was their attitude to the vote in Parliament. There is no evidence of Edinburgh or Haddington sending similar delegations. The petition of the Commission of Assembly was submitted to the Lords Articles in the name of the Kirk. Calderwood records that there was opposition in the Articles among the abbots and priors Lords of Session and some of the nobility. Presumably the Barons on the articles and the burgesses were acquiescent but the measure passed with the King's support. The Commission gave as their reasons for the measure that vote in Parliament had been necessary for the Kirk in that it had always petitioned against non commissioned persons committing the Kirk as an Estate. Their claim was that the Kirk ought to be the Third or Fourth Estate within Parliament not as standing without supplicating and presenting petitions to the Articles which received little satisfactory answer. The actual act however (1) stressed the privileges of Prelates rather than of Representatives of the General Assembly. As it stood vote in Parliament was to be granted to such or so many of the pastors and ministers as the King should promote to the office of Bishop Abbot or other Prelate, and they must be actual ministers according to the Kirk's former stipulation. The Lords of Parliament were anxious that the Commission of Assembly should immediately agree to this Act in the name of the Kirk but a provisional clause was added whereby the "office" and definition of detail was remitted to the agreement of the King and General Assembly which is now almost invariably referred to as the Assembly of the Ministers. Such consultation with Assemblies was to be at the times most fitting as agreed upon by the King. The actual act was supposed to be a benefit to the Kirk in return for the peaceable restoration (2) of the Papist Earls. The whole question of representation was bound up with the financial situation. The scheme of the Constant Platt had been very much on the lines of the "caveats" about to be laid down by the Assembly. The work of provision however was by no means as far advanced as that abandoned scheme, although certainly the joint commission of ministers and Lords were appointed to modify in the usual way. All pensions out of the Thirds were annulled (c. 11) The two thirds of each benefice as it fell vacant were to go to the crown (c. 13) and no gifts were to be made out of the temporality. Ministers were to be compelled to give in an account of the rental of all temporality assigned them in stipend. (c. 14) (3) The organization of the Kirk Session was once more called in for the execution of the acts against vagabonds and Egyptians---a tacit admission that the Kirk system was much more effective with its custom of testimonial than the civil police.

(1) A.P.S. IV. p. 130-131 cap. 2 Calderwood p. 668 quoting James Melville p. 435

(1a) The commissioners of Assembly in their letter of information mention that they had the advice of "diverse commissioners of Presbyteries" C.V. p. 671 The presbyteries chosen were probably those to which the commissioners themselves belonged

(2) A.P.S. IV. p. 125 (3) See St. Pres. Recs 5th Jan 1598. The King's letter informed them of the General Assembly and asked them to bring details of stipends out of temporal lands.

Circular letters in the old manner were sent round the Presbyteries by the Commission of Assembly with a copy of the act. The King's letters sent similarly through their agency showed that at last James had obtained control of the Kirk propaganda system. The Presbytery of Edinburgh received

- (1) the Royal letter on 3rd January intimating that he and the Commission had agreed to alter the Assembly from May till 4th March. The commissioners that they should elect should be "of the maist learned wyse and experienced" The letter from the Commission was not received until 17th January with information as to the causes. The Presbytery wrote to the other Presbyteries of the Province to arrange a Synod presumably for obtaining a unanimous opinion. Probably the election was made at the Synod, but the Presbytery certainly had a separate meeting to "ressoun upon the occasion of the said assemble". The Presbytery of Haddington through Davidson attempted to sound the King before the Synod, for whose decisions as an allegedly representative body the King had contempt. He inferred that the "unanimous" opinion of a Synod was simply the opinion of the leading group which he said numbered only 5 or 6. If as we are led to infer the system of Moderators Assessors obtained in Synod as in Assembly the Royal conclusion was probably accurate. The veneration in which some of the "prophets" were held contributed to a kind of oligarchy as close as the Articles. The tendency to use the Synod as the electoral body in time of crisis induced Haddington likewise to defer the choice of commissioners to the General Assembly, and the result was an attempt at mass representation on the part of the "sincerer sort". It was the Synod of Lothian which initiated the criticism of the Commission of Assembly in the actual Assembly.

- (5) The Presbytery of St. Andrews considered the Royal letter on January 5th (with the additional demand for statistics as to temporal lands). The same procedure took place and it seems clear that the group of extremists Melville Davidson and the remaining few had a good system of correspondence which enabled them to arrange an organized campaign on a uniform plan. (6) In any case an extraordinary meeting of the Synod was held. The meeting was held to be so much the centre of opposition that a

{1} Edin. Pres. MS. Recs. 3rd Jan. 1598

{2} ibid. 17th Jan. The Synod was fixed for 21st Feb.

{3} C.V. p. 679 Davidson had just received the Royal presentation to

{4} the vicarage of Saltpreston

Haddington Pres. MS. Recs. 25th Jan. 1598 "remittis the chusing of our commissioneris of the Generall Assembly to the said tyme and place" On 1st March it was noted "In respect that some greit number of the brithren is appoynted be the provincially assembly to be at the generall assembly and that the tyme of thair returne is not lookit to be haistlie It is thought meit that thair be no exercise quhill this day xx dayis"

- {5} Pres. MS. Recs. St. Andrews, (6) See J.M. p. 436; Pres. Recs on 11th January record a letter from Mr. William Scot anent the tyme and place of the Synod.

special Royal Commissioner was sent to watch over the King's interest. In spite of the visitation and the act forbidding attendance of Professors, Andrew Melville was present and he and his nephew were largely instrumental in changing the general opinion from acceptance of the vote in Parliament to refusal. The agitator Davidson was present presumably for the purpose of "correspondence" between Synods a custom which did much to spread Kirk propaganda and which very often was in the hands of the zealots. In the Fife Synod while the general attitude was determined it seems clear that the individual representatives to Assembly were not chosen there probably owing to the restraint exercised upon their freedom by the presence of Royal delegates. In a small meeting on 26th February (9 ministers being absent) the Presbytery appointed "the haill Presbytery" to attend the General Assembly⁽¹⁾ and on 2nd March it was agreed that Mr Andrew Melville should be added to the number of commissioners nominated of befor provyding thegenerall agrie therto". I.e. this amounts to an assertion of the right of the Assembly to determine its own membership irrespective of Royal and University regulations.

In the March Assembly 1597-98 there was certainly a large lay element. The sederunt mentioned commissioners of all shires and towns and Calderwood tells us that the Moderator Blackburn was elected by the vote of the Northern ministers and barons. If a lay element was present, where in the case of St. Andrews were they elected. It must have been at some separate baronial meeting not under church auspices for Kirk conventions of that type were forbidden now by law. The King appointed the assessors; delay and bribery brought about the departure of the poor zealot ministers, and induced acquiescence in those northern ministers who thus had their expenses paid out of the King's pocket. Andrew Melville had not a good case for appearing in Assembly even although he had that belated commission from the Presbytery which after all depended on the sanction of the Assembly. The regulation however seems only to have applied to the University of St. Andrews.

If as Calderwood and the rest assert the business was prepared beforehand by the Commission and the nominated assessors simply arranged and tabulated, the result was certainly an advance in clarity and definition of the constitution, for the numbers were fixed at 3 ministers and one baron from every Presbytery and one delegate from every royal burgh. The object was obviously with the intention of preventing the Swamping of the far distant Presbyteries who could not afford the expenses of travel, by the central groups who had attempted the same purpose in this assembly itself. Whether the measure showed an attempt to foster a majority vote of individuals rather than of Presbyteries is not clear. Although Melville suggests a Presbytery vote the large numbers sent by the central provinces would have been unnecessary unless an individual vote had been the general rule in spite of the pretensions of the "unanimous vote". The Synod seems to have remained the official

(1) Pres. Recs. Ms. St. Andrews

electoral unit in that it was made responsible for payment of the ministers commissioners. The rest of the ministers of the synod had to pay under penalty of loss of one tenth of stipend but this was obviously meant once more to ensure that all Synods should be present by representatives so that the central groups should not rule all by force of numbers as they had obviously done in the past.

The committee, which agreed that the "greeves" against the commissioners were better buried while it certainly contained a majority of moderates yet had a good number of the most zealous including some of the Edinburgh brotherhood and the redoubtable (1) Welsh. Calderwood would infer that the complaints given in were almost universal and from Presbyteries all over the country. He seems to stress the fact that the Presbytery was the unit of voting in stating that whole presbyteries were debarred from the decision upon the suggestion of the Committee of Grievances to bury these feuds. Nevertheless the vote was in public Assembly whether corrupt or not, and the Committee of Grievances did not make the decision on their own authority. (2)

The "Greeves" or articles presented to the King who was in Dundee although it does not seem clear at which sessions he was present (certainly he was present in the first and probably at several of the others e.g. 6th) show a clarity and point which when considered in connection with the precise answers which they received go to prove Calderwood's assertion that they represented a bargain between the King and the Commission. Their chief constitutional feature lay in the reference of most of them to Parliament in which may be perceived the attempt of the King to increase the prestige of the civil institution which he had gradually and with still further intentions got almost completely under his power. Reference to Parliament also meant that the Assembly should look to the advantages to be obtained once it had a definite representation within the Civil Government. (3)

The shadow of the Octavian scheme the Constant Platt still hung over the Church and its question of provision. The idea that the ministers should be paid out of the tithes of their own parishes (which was executed in the act of 1617) was still confused with the system of particular assignments although as far as possible these assignments were made out of tithes and rents as close to the Kirk as possible. The bribe for vote in Parliament

(1) B.U.K.p. 941 C.V.p. 684 (2) C.V.p. 689

(3) e.g. 7 in number. A request for the remission of taxation for every minister especially "this present taxation" allocated in the last Parliament. The King recommended a supplication to the Council by commissioners of Assembly to be appointed. (ii) A supplication to be given in to Parliament against Kirk burial long prohibited by act of Assembly; adulterous marriage also referred to Parliament. The carrying of witches about to be referred to a Committee of Parliament (cf. the entry on this point. Sept. 1st 1597 St. Pres. Recs) Corrupt bargains between presentee and patrons was referred to Act of Parliament for redress

was the settlement of this scheme. Local stipend was at the goodwill of the tacksmen but eventually it was hoped at the expiry of the tacks to give the full teinds to the Kirk according to Lindsay's proposals. But the tacksmen would make no local provision according to the report of the visitors (of the commission of visitation 1596) except upon condition, and these conditions were such as to hinder effectually the ultimate end of the scheme which was to hand over the tithes entirely to the Kirk. They demanded perpetual renewal of their tacks thus practically making them hereditary income. The whole system was inextricable. Landowners had tacks of other landowners' teinds and these objected to such perpetual alienation. The first book of discipline held that there ought to be no muddle: men but that each man should own his own teind and be accountable for it to the Kirk alone. Now the lairds were the class which held most tacks of teinds and the other section objected to the suggested perpetuity of tacks. The result was that the lairds since the investigation had been rigorously executed were by no means anxious that the Kirk programme should be carried out. To both owner and tacksman the scheme and its compromise was suspect. The King by seeming to support the proposal alienated the gentlemen from the Kirk who had been her readiest supporters while their revenue was not called in question (of their attitude to the Parliamentary vote when they found they were expected to buy it; and also their attitude to the Kirk when it suggested contributions for a Royal Guard).

The King now offered to use his influence to obtain the best terms possible and the Commission of the General Assembly once more became the means of communication between the King and the individual ministers and Presbyteries. The whole trend of the proceedings was to make the appointment of a similar General Commission indispensable, and accordingly before even the main business of Assembly had been entered upon the new Commission was nominated only 9 or 10 of the original 14 being reappointed to the duty. The numbers of this Commission were raised to 19, together with the King and Princess ministers. Their duties were in the same comprehensive scale, i.e. for the whole negotiations for the Platt for the planting of the chief towns, for trying cases of dispute between King and ministry for all dealings with King and Parliament.

On the 13th March the fateful question of vote in Parliament was broached. The scheme as propounded by the King was a reasonable one. His objective was no Anglican Episcopacy "but onlie to have the best and wisest of the ministrie appointed by the General Assembly to have place in Council and Parliament to sitt upon their owne matters and see them done and not to stand at the doore lyke poore supplicants despised and nothing regarded." Even on occasions when they had pushed their way in e.g. Andrew Melville 1596 their violence as individuals and as representing no settled policy had debarred them from making any impression upon legislation. If Andrew Melville claimed right as a Commissioner of Assembly to be present in Convention his attitude now was hardly consistent

In the presence of the King for his oration was made in open Assembly (on the analogy of the Parliament) the majority vote was put into practice. Like Parliament the roll was called in public and the inference must be that the Presbytery as a unit of voting was certainly in this instance discarded although like the Estates the individuals were called in the order of their Presbyteries. Thus the first vote was the Northern one apparently in sequence and although the majority was only ten Calderwood assures us that even so the advantage was obtained by "laics wanting commission". By whom were these laics appointed such records as have come under review show no election in the Presbyteries nor are they mentioned as being appointed in the Synods. Were they simply the royal nominees or were they the shire commissioners who came of their own accord or by the desire of the barons of the shire to watch over the gentlemen's interests in connection with the teinds. They came according to Calderwood mainly from the North. The zealots like the Melvilles and Calderwood himself were hardly consistent. They had no objection to the "Barons and gentlemen that shall happen to be present" provided they were at the direction of the "best" and were not too curious as to Commission but they could be rigid constitutionalists when they found themselves in a minority.

The question of prelacy was not touched for the issue as raised was "to reason in public audience of the haill Assemblie whither it were lawfull and expedient that the Ministrie as representing undoubtedly the Kirk within this realm should have vote in Parliament or not" The lay element was thus as definitely excluded from the exercise of an ecclesiastical vote as they had been in 1587. (1) The presence of the King was a curb upon the usual method of minorities in Parliament i.e. that of formal protestation. Davidson could get none to sign his document and the majority accordingly refused to register it.

The influence of the scheme of representation as expressed in the Constant Platt was obvious in the number of representatives agreed upon. Now James Melville states that the Constant Platt would have been very acceptable to the Kirk in 1596. At that time therefore they had no objection to vote in Parliament. Then certainly there was not the menace of Prelacy attached. What their ideal scheme would have been is difficult to conjecture for they seldom committed themselves to consideration of practical details of policy.

The number was fixed at the PrefReformation number of 51 their election to be partly by King and partly by Kirk although there was some discussion on this point, and it was recommended that the vote should not be of this mixed quality but be free as upon the model of the commissioners of the shires or the Burghs. The method of election, the duration of the appointment, the payment of the commissioner the restrictions to be placed upon him to ensure his responsibility to the Assembly were too involved to be discussed in open Assembly. By a remarkably popular system under the circumstances the Presbyteries were given opportunity to give their views at a special meeting of all Synods for the very purpose. Each Synod was to meet in its ordinary place of meeting upon the 1st Tuesday of June

(1) B.U.K.p.945.

there to choose three delegates to convene with the King upon a months warning from him. At this conference apparently to meet the objections of the minority that the most learned had been excluded from the Assembly, seven doctors of Divinity were appointed also to confer with the rest of the delegates on these difficult points. If there was a unanimous vote that conference should have power to conclude but unless all were agreed the entire question must be referred to the next Assembly. The persistence of the idea of the unanimous verdict must be definitely ascribed to the minority influence.

So the position was left. (1) The Commissioners many of whom were yet of the Edinburgh Presbytery were busily occupied with the case of Robert Bruce whose obstinacy while almost heroic was nevertheless curiously reminiscent of that baronial lawlessness which was a common characteristic of the Ministry. But for the fact that the Commission of Assembly was now in alliance with the King the position in Edinburgh was very much as it had been before, except that the Presbytery realized that in the Riot of December 17th it had played its last card for the Council of Edinburgh would never repeat the experiment which had cost them £30,000. The records show that the Commission of Assembly continued to meet with the Presbytery on matters of any moment particularly in the affair of Bruce. And on at least one occasion delegates from other Presbyteries attended the meeting of the Capital Presbytery along with some of the Commission of Assembly to give a testimonial to Bruce. (2) Probably those outside delegates represented an attempt of the Bruce supporters to overthrow the influence of the Commission or those members of it who were also members of the Presbytery but in the absence of any detailed personnel it is not clear.

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- (1) Although the Assembly absolved the Papist Earls their zeal against traffickers with Spain did not decrease. The Presbytery of St. Andrews on March. 23 1598 instituted execution of the acts against sailors and traffickers with Spain" and special attention was directed to Largo "where sick sort of trade or handling has been used." The Laird of Largo was more than suspect
- (2) Pres. MS. Recs. Edin. 17th May. 1598 The question of Bruce and his ordination will be found fully discussed in Cunningham. I. 447 Bruce was said to be the chief opposition to the Royal Schemes and the King's enmity is a curious contrast to the confidence he once displayed in appointing him one of the joint governors of Scotland in 1589. His baronial influence was a danger. The Presbytery on this occasion along with the Commission drew up the declaration "We acknowledge Mr. Robert Bruce was and is yet a lawchtfull pastor of the Kirk of Edr. Having an lawchtful calling of the Generall Assembly herto and as to the imposition of hands we use it not as a ceremonie of ordination of the ministry bot as a ceremonie of ordination to his particular flock" see Calderwood p. 722 Bruce was admitted 19th May. The chief interest in these discussions from the constitutional view is the return to the pseudo official conventions of other delegates.

During this period in expectation of the conference in June the Presbyteries were busy. Although summary excommunication was still a moot point pending the decision of the Assembly Haddington was showing its interest in the more careful execution of acts against those already excommunicated. The list which they offered to the "Justice" for citation numbered for their Presbytery 51 one the enormous quota of 55 many of whom had obviously in the first instance been summarily excommunicated. (1) Other signs are obvious. On 31st May the Book of Discipline was appointed to be given to some good writer to copy so that every brother in the Presbytery might know the constitution (2) St. Andrews began its reasoning on the questions "committed to them from the general assembly" on 25th May; On 30th May the Presbytery of Edinburgh considered the question and decided in perfectly definite terms which in spite of the fact that several of the Commissioners must have been present seem to be almost in identical terms with the accepted system of caveats ultimately agreed upon by the General Assembly. Until the obvious inducements of Bishopsrics were offered them it is probable that the Commission of the Kirk which contained some of the old time opponents of Episcopacy had no intentions other than to represent the Kirk in a constitutional way as the Third Estate of the Realm subject to the approval of the General Assembly. (3)

The Synod of Fife meeting on the 8th June in Dunfermline (4) showed a division of opinion - Three Presbyteries voting for the more constitutional attitude and Cupar obviously preferring the suggested Royal interference and more open Episcopacy (5)

- (1) 5th April 1598 Many were of the landed gentry. Haliburton in Dirlton excomm. for the murder of his brother, The Laird of Syd: self for adultery, G. Ker of the Spanish Blanks (brother of the Lord Newbottle, for papistry and trafficking with the Spaniards His brother Ker of Saltonhall was summoned for resetting him and defied the Presbytery, which thereupon entered process against him but the sentence was not pronounced. Execution against such lairds who were themselves the justices was seldom effected
- (2) Haddington. Recs. May 31st 1598
- (3) Edin. Recs. 30th May. Election None to vote in Parliament save those who were actual ministers before election. (ii) Kirk should give leets to the King rather than receive leets from him. G.A. agreed upon 51 as number therefore the Kirk should present 3 times that number to him from which he must choose. Rent There should be given to each Presbytery in name of the Kirk "a sufficient common rent that may be employed upon those chosen to vote in Parliament" out of the Kirk patrimony Duration of Appointment They ought to be changed from one General Assembly to another. (This also was the Fife view) Title "Commissioner from such and such a Presbytery or Province" Fife thought they should be called the Commissioners of the Kirk
- Caveats They must usurp no spiritual jurisdiction above others they have no higher status except in the matter of vote

The methods taken to secure that the delegates from Synods should be predisposed to the Royal view were those eventually adopted in the appointment of Moderators and their Assessors in the Assembly. i.e. by deliberately debarring a large number of the opposition from voting by placing them upon the actual leets making sure that the persons actually voting were either neutral or sure to choose the people most amenable to the Royal will.

Whether the Presbytery of Haddington was making an effort to sound the gentlemen on the question of their attitude to the vote in Parliament is doubtful but a great deal of negotiation was going on over the matter of the contribution for the town of Haddington which had been destroyed by fire and there is a hint that special effort was made to get into touch with them before the Convention of Nobility on Estates which met on June 29th(1); but only 7 lairds and 6 burgesses all probably nominated were present at this Convention besides the Council and such attempts at influence must have been in any case abortive. Nevertheless the Convention shows in its enactments undoubted signs of Church influence and this was certainly due to the attendance of the Commission of Assembly whose chief duty it was to deal in such circumstances with the Civil Power(2)

In accordance with the arrangement of the last Assembly that upon a months warning the commissioners of all Synods should meet, the Presbytery of Edinburgh on 27th June received intimation from the King of a Conference at Falkland on July 25th(3) and they were given the duty of warning such commissioners as had been appointed in the Synod of Lothian. But these commissioners, in spite of the King's preparations, insisting upon

Comtd. They were neither to vote nor reason in Parliament against the Acts of Assembly

(4) See MS Recs. Pres. June 8th "at the synodall"

(5) Cupar thought that a leet of 5 or 6 should be made by each Presbytery from which the King should choose one; while the other 3 Presbyteries considered that election should be free like that of barons and burgesses and not subject to the King's choice. Cupar's view was that the Bishop or Commissioner the title being indifferent should be chosen for life or ad poenam. Whatever funds were to be taken for payment one thing they were all agreed upon was that the individual stipend should not suffer nor should the old benefices remain undissolved. Their idea would seem to be a definite sum to be laid aside by the state from ecclesiastical revenues and the payment of these commissioners to be made By the individual presbytery from these funds

(1) Haddington. MS. Recs 14th and 21st June ministers to approach all the gentlemen of their parishes.

(2) See A.PS.IV.p.158 et seq. notice the act for the Monday Holiday which had been a Kirk measure for some time in private conferences with local landowners

(3) Edr. Pres. Recs.

Kirk Control of the Ecclesiastical Vote rather than that the King should have a free hand, were dismissed without agreement and according to the instructions from the Last Assembly the whole question lapsed in the absence of a unanimous vote to the decision of a full General Assembly. The King now normally presided at these meetings of extraordinary Kirk conventions or conferences, and it was no longer practically possible to claim that the Chief Civil Magistrate was more than an ordinary lay elder of the Kirk. (1)

All matters might seem to be in the hands of the Commission but in September 1598 there is evidence of a recrudescence of the pioneering spirit of the Edinburgh Presbytery. Their complaint was the old one of 1593 about which they had made direct appeal to the Convention of Royal Burghs. Hearing that several people in their bounds were about to embark for Spain they ordered them from the pulpit to stay and if this failed they agreed to travel with King and Estates when they met in October. (2) to interpose their authority to stop such traffic unless they procured licence to travel there with a free conscience. The Estates were also to be petitioned "for staying the transporting of victuall passing furth of the country" That the Presbytery did intend to make representations to the King through their own commissioners and not through the accepted channels of the Commission of Assembly is clear. On 26th September they renewed this commission and added several other grievances connected with the restoration of the ministers' manses of Edinburgh and the restoration of the Bishop of Glasgow, complaints against their old enemy Gordon the Jesuit. Those whom they chose to present these articles to the King could not go (the King was travelling through Fife and Stirling) (3) and deputed their task to the King's ministers Galloway and Duncanson who were members of the Commission of Assembly and were thus accredited agents of the Kirk as well. Although these reported a good answer from the King there is no direct answer recorded in the acts of the Convention of October 30th to which they were really directed (4) They did obtain acts against non communicants and excommunicate Papists but curiously Gordon's name was not on the list. (5)

There is evidence of considerable activity among the Presbyteries in preparation for the Convention of Estates

(1) Sp. III. p. 73 says they met on 29th July. The date of the next Assembly was altered whether by their consent or on the King's own initiative is not clear.

(2) 5th September, 26th Sept. Edr. MS. Recs. (3) On 28th Sept. he was in Dalkeith

(4) P. C. R. V. p. 489 There were 5 lairds and 4 burgesses in addition to the Council (Ret. of Names. p. 545)

(5) He was banished by act of Council or Convention 19th Dec.

Edinburgh on 6th December "understanding that the Convention of Estates was to be held upon 10th December appointed Robert Bruce and John Hall (himself one of the Commission) to concur with the Commission of Assembly in preparing "sic Articles (1) as may serve for the weill of the Kirk". Did the Commission ask for the suggestions of individual Presbyteries. St. Andrews certainly had several representatives in Edinburgh at this time for when a letter came from the clerk of the Assembly asking the Presbytery to appoint a commissioner to the Platt before the 20th December, a blank commission was made out to be filled in favour of one of the brethren who were in Edinburgh. Gladstones himself was not in Edinburgh on the 7th December. (2) Haddington also had two ministers at the Platt. (3) It seems clear that what happened must have been some thing like an informal meeting of the ecclesiastical estate.

But what these articles were is unknown and the records of Council and Convention show no ecclesiastical legislation. The reconstruction of the Council in this convention simply set a seal upon a practice common throughout the year for it simply included as ordinary members those who figured as extraordinary members in the Conventions. (4) The rise of the new nobility created from the lesser barons and promoted at the expense of the Ancient Nobility, was already part of the King's programme for withdrawing the lairds from the support of the General Assembly and Kirk schemes.

The King had now a Council capable of augmentation at his demination and a Kirk Commission which seldom opposed him. In both of these he presided. The ministry of Edinburgh therefore again in trouble over their utterances in pulpit in spite of the act of May 1597 which promised forbearance in discussing affairs affecting the state, had little chance of browbeating the King as they had done in the old days. The opinion of the Presbytery supported them but they had no remedy against the arbitrary power of punishment which the Council had given the King. The curiosity of the Kirk in the matter of the relation between the Council and King and a vague seeking after some kind of constitutionalism were ineffect: ive in the face of the wide powers of the prerogative (5)

The Presbyteries renewed their vigilance with regard to the Papists. The Kirk had an unerring instinct for "smelling out" the Papist and Spanish intrigues and the careful system of police which the ministers exercised prevented any secret comings

(1) Edr. Pres. Recs. 6th Dec. 1598 (2) Pres. Recs. St Andrews MS Dec. 7th and 14th Gladstones reported that the post had deliv: :ered him a letter from Mr. Thomas Nicholson desiring them to appoint a commissioner to the Platt before the xxth December. Ordanis ane commissioun to be writtin blank and seing sindrie of the brithering ar in Edinburgh ane of the maist meit to insert thair name"

(3) Hadd. MS Recs. 13th Dec. 1598 Carmichael and Hay.

(4) See P.C.R.p. 499 A.P.S. IV. p. 177 C.V. p. 727 31 members of Council 16 noblemen Others officers of State Barons and gentlemen nominated by the King

(5) Pres. Recs. Edr. 23rd Jan. 1599 see C.V. p. 728

and goings long remaining hid. Crichton and Maitland's processes (1) show the reluctance of the Kirk to proceed to excommunication (since the question of summary excommunication was now debarred until further decision of the Assembly) and the Papists took advantage of the system of conferences to gain interminable delays. Haddington especially had the greatest difficulty with the House of Seaton which claimed that the King had given them permission to receive the notorious plotter Gordon the uncle of Huntly (2) Edinburgh had interest in the prosecutions in that it still retained some kind of right to examine all Papists resorting to the Capital and sent delegations to the King to lay complaints before him on the point of the immunity of Papists and excommunicates inspite of the acts of Parliament and Privy Council (3) The ever recurrent trouble with the French ambassador arose in July in a more aggravated form, and the Presbytery in their remonstrances declared a theory that the King for his own sake must be prevented from permitting such things as the celebration of the mass in the ambassador's house so that the wrath of God may be stayed. (4)

Although the Synod of Lothian held its ordinary meeting in May a special conference called by the King on 22nd discussed anew the causes of a fast which that Synod had inaugurated as a means of spreading a national alarm at the return of the great numbers of Papists and the uncertain but guessed at intrigues with the Pope which James at this point was undoubtedly but tentatively pursuing. Royal influence obtained a remission for James Maitland for one month.

(1) Edr. Pres. Recs. 13th Feb. 1599 Crichton while admitting he was a Catholic declared that as he was only here for a short time there was no occasion for scandal but the Presbytery insisted that he must give Confession of Gaith otherwise they would proceed to excommunication. Maitland for the Presbytery of Haddington had to oblige himself either to leave the country or conform or be excommunicated 28th Feb. 1599. When they had reached the third admonition he appeared with a Royal licence to leave the country and asked for a delay The Synod was referred to and the case dragged on interminably

(2) Haddington MS Records 7th March. Seaton sent a servant with a letter to the Presbytery showing the King's licence. "The presbytery nawayss lyking of this mater Desyris my lord be his commissioner maist ernestlie wt. all possible jaist To use his moyan at the Kings M/ hands and to make him quitt of him and in meanquill to keip the said Mt James in maist strait maner in a chalmer quhill he wer removit wt ceryfication thay wald proceed aganis for resetting of him" Thus the Kirk was above the Royal Licence. A private warning having had no effect on 21st March the first public admonition was given. The Privy Council intervened with a request to stop the process While stopping the process for a week they fix a day for Gordon's departure under penalty for the resetter. On 4th April it was reported that Gordon was out of the bounds.

The King adopted a system of semi official conferences in order to achieve the desired consent to the vote in Parliament. The ministers who attended these conferences may have been individuals summoned to give advice or they may have been the accredited representatives of individual presbyteries (e.g. St. Andrews in the beginning of July; Falkland, toward the end of the month,) and probably the negotiations extended to private consultations with the Burghs in Convention and the Convention of Estates which were meeting in Fife during the same month. The system seems to be that at any convention of Estates Nobility or Burghs the Commission of the General Assembly either by itself or augmented by a conference made such representations as were possible on the common Kirk grievances. But the word conference is vague for it was sometimes used only to denote the Commission itself.

Although the Kirk had claimed a free right to express its views both in pulpit and in pamphlet it had no intention of sanctioning freedom of the Press for all opinions. In 1596 they had asked that the King disseminate no printed accounts of the proceedings in Edinburgh. Their attitude in dealing with the King's Law of Free Monarchies and the Basilikon Doron illustrated their attempt to keep the censorship of the Press in their own hands although that had been a function of the Convention of Estates. Andrew Melville's somewhat unscrupulous methods of taking excerpts from the latter Book before it was even published showed the desire to suppress and to counteract at the very source the promulgation of a theory of statecraft which did not accord with the accepted views of the zealots. (see SP.III.p.81 et seq)

contd. from preceding page.

- (3) Edr. MS. Recs. 3rd April Lord Dacre "Englishman" produced the King's protection. A delegation was sent to the King with a list of demands chiefly that these protections should be abolished and that he would deal stringently with Papists particularly Dacre and Crichton according to the Acts of Council, with enquiry into "mass" at Paisley and execution of laws against immorality. The King arranged the inevitable conferences. 24th April
- (4) M. de Bethune. His mass they said was treason to King and the laws. A letter was sent to the King on the point. The King professed ignorance of it (EQst July 1599)
- (5) 27th June 1599 Haddington MS Recs. On August first it was insisted that before another week a testimonial must be produced as to Maitland's departure. The certificate must be signed either by the Minister and Session of the Port or by the master of the Ship on which he sailed. He did leave but was back again by 28th Jan 1601 The Presbytery said that they would continue the process from the point at which they left off at his departure out of the country.

The attempt to censor all published works and the production of plays inclusively led to a situation in the Edinburgh Session which indicated that the majority vote which was now recognized throughout all church Courts was capable of overturning some of the most cherished schemes of the ministry and the "best". By the vote of the lay element a decision of the General Session of the Town of Edinburgh was rescinded on representation and a definite charge made by the King and this although the act in question i.e. "plays by the Englishmen" had been ratified by the Presbytery and by the Synod for the discharge of such plays (1)

An unsympathetic lay element or one overawed by Royal command could now prevail against the "inspiration" of the minister and his supporters "the best".

The conference of November would seem to have been a general meeting on the lines of that which had been unable to come to a unanimous decision in the end of July 1598. Their doubts had been referred to the next Assembly but the King and Commission had prorogued that Convention of the Kirk from the original date as fixed in the March 1597-98 Assembly from one date to another and proclamations sent out intimating such alterations by publication. (2) The object in each case was to obtain by some means an agreement in conference before putting the matter to a decisive vote in the Assembly itself. There are no traces of fresh elections for the conference. Perhaps the same members who were elected in the Synods of June 1598 simply had their commissions renewed. The November Conference was for the purpose of free debate but under the King's presidency, so that the "zealous and fierie modest and grave wise and indifferent" might express their views in this semi private meeting and the dignity of the real Assembly not interfered with by high feeling and unconsidered invective. The King's objective was clear. He wished to stop as far as possible the free exercise of debate in Assembly and to place its methods of deliberation on the same basis as those of Parliament. And in the end he succeeded mainly by these conferences and by skilful use of the Committee of Assembly known as the "Moderator's Assessors". Whether this conference was held in the presence of the Privy Council or not is not certain. Privy Council Records show the attendance of the Commission of Assembly but whether the whole body summoned was also implied is not stated. The doctors of divinity were members of the Conference (cf. Andrew Melville's speeches) but the authorities are not at all clear as to whether this could be called a representative meeting of the Synods or merely an arbitrary number of leaders of both factions summoned to lay their views before the King. They had always admitted that he could summon what ministers he pleased for the purpose of giving advice (3)

(1) Pres. Recs. 13 Nov. 1599 The Conference would thus be sitting at about the same time.

(2) Altered from July 1599 to October and again to March 1600 (P.C.R. VI. p. 28)

(3) P.C.R. VI. p. 29. Row says the Conference was for those who were not resolved in the last Synod Conference and subsequent ones C. implies the Synod delegates but also says it was by missive letters to the chief ministers. C. 7416. Row. p. 414. T.M. 4146

This doubt is as to whether they were Synod Delegates or merely individuals summoned as it were to an augmented Privy Council accounts for the hesitation of the zealot party as to whether anything they conference might decide could prejudice the ultimate decision of the Assembly. Certainly the delegates of Synods of July 1598 had had power to commit the Kirk only if a unanimous vote was obtained. Perhaps the zealots feared the "unanimous vote" if exercised by the King's party. Although a nominal moderator David Lindsay was appointed the real presidency was the King's and he seems to have been of two minds whether the meeting was a representative conference or his convention summoned on his authority alone. Probably if they had been favourable they would have been considered as delegates of Synods.

The Conference having protested that the ultimate decision of the Assembly itself should remain unprejudiced discussed the whole question of vote in Parliament from the beginning considering alike the actual act of Assembly and the "Caveats" propounded in the Conference of Falkland of 1598. The debate which was led on the one side by the King and the Commission and on the other by the zealots of Fife involved a fundamental argument upon the constitution, both of Parliament and of the Kirk. The one side held that as citizens ministers ought to "consent" to the making of laws (i.e. the prerogative idea not of the Parliament as making laws but assenting in the manner of the King's Court). The other side had no constitutional advance to propose on this point, they even doubted whether consent was necessary, and stated that in so far as their civil function was concerned their consent was already provided for by the presence of the barons of their shire and the burgess representative of their Burgh in Parliament. The idea was the feudal one which they had applied to their own Assembly where the "commons" were held to be sufficiently represented by the attendance of their lord or baron. This could not have meant that the ministry claimed vote in the election of the Commissioner of the Shire for except those who were freeholders and lairds themselves the ministry had no right to attend the Head Court as voters. The minister in Burgh held the rank of guild merchant and did sometimes sit on the Council but there is no evidence to show that he exercised his civil right to demand vote in Council when the Parliamentary representative was being appointed.

Their view remained, in spite of its ineffectiveness in practice, that Assembly and Parliament were two separate organizations and interactions should be provided for purely by temporary commissioners for a special purpose, with the implication that whatever the Assembly recommended "as being the mouth of the Lord" should be automatically adopted. The position was that of the first book of Discipline as to a permanent civil function. But the Policy itself had made an exception in favour of Parliament to which a minister if called might go

since Parliament was no normal and permanent part of Civil Government. The Melvinian view of course was that attendance on Parliament meant the right to address the meeting as a power from above outside the civil constitution. The "call" mentioned in the Book of Discipline meant for him the call of inspiration, extraordinary summons or request from the King for special advice, yet as a commissioner to guard against danger he had been indignant when the King had not called upon his

(1) advice in August 1596 but had "called" others of less inspiration. The King's party claimed that by the "waiting upon Parliaments and Conventions" as particular commissions of the Assembly there was just as much a distraction from the duties of the ministry as there would be by formal representation in the Parliament itself. In point of fact ministers such as Bruce and the Melvilles were far more concerned with affairs of state and general lines of foreign policy than were the individual barons and burgesses who normally made no attempt to interfere with the King's prerogative in making wars and alliances. According to the opposition view the "waiting upon Parliament" would cease once the church was fully established in the matter of provision but was this possible or probable if the Assembly continued to exercise that policy of control or supervision of the advice given by the Council to the King, of foreign alliances and trade of the defence force of the nation, of the Royal Guard and officers. Nothing short of a dictatorship would have satisfied the Melvinian standard. The question was simply this whether the Assembly would continue to be the equal, rival, or superior of Parliament or be content to accept the position of the Pre Reformation Church and General Council as merely one of the Estates of the Realm.

Although technically their statement might be accurate that never in any Assembly had vote for the ministry been agreed upon for the Kirk as a whole could not reconcile the two functions yet the terms of Lindsay's protestation in the Parliament of 1587 did imply that ministers actually exercising function within the Church should be the only representatives of the Kirk in Parliament. (certainly the Assembly of 1592 had shelved the problem) The earlier suggestions which the barons had hoped might

(2) tend to their advantage for "commissioners" without specification as to ministerial function, were revived and the elder or deacon was deliberately brought forward as the more rational representative for the Kirk in Parliament. Such a proposal would have been acceptable to the barons before the act of 1587 but now that they had an organized system of shire commissioners such a composite lay-ecclesiastical Estate would either have meant considerable overlapping or a strengthening of the baronial representation which despite its control by the Kirk would have followed its civil interests in other matters and upset the balance of power in the Estates (since the vote was a majority vote and not one of Estates.)

Their demands show that opinion was diverse even among the zealots. Edinburgh had insisted that the representative in Parliament must be a minister before his election. Could the lay element in the Kirk have been organized to vote solidly as a constitutional opposition? There were suggestive possibilities but the fact that barons were no longer really regular in their attendance at the Presbytery meetings seemed to show that their support of Kirk Opposition with regard to Foreign and Domestic Policy had been largely one of political expediency which circumstances had altered. They were settling down to definite place in Parliament and were being advanced by the King as a counter balance to the claims of the ancient nobility. The introduction of lay commissioners of the Kirk into Parliament would not have altered the fundamental theory of Parliament as on a landowning basis. The barons who were Presbytery delegates were exactly those who attended the Sheriff Court as suitors and the co-ordination of the two systems was inevitable. The Kirk however made no stipulations as to freeholding and feu holding but the persons who were usually ruling elders were those who were most capable of executing Kirk decrees in their baron courts.--Crown Barons. (1)

Such a system of Parliamentary representation was not really a serious question. The questions of perpetuity of the commission and the title of Bishop showed that the other side had no intention of permitting laymen to represent the Kirk in Parliament. The ecclesiastical Estate had too long been represented by titular prelates who remained laymen for the scheme to be feasible. The Opposition obviously did not believe that 51 good livings would be forthcoming or that even so, a group should be as far seeing for the weal of the Kirk as a whole General Assembly. Fifty one representatives were a larger commission than any the Kirk had ever nominated for the execution of its business with Parliament. (2)

Unanimity was as far away as ever. The King produced the threat of the prerogative to appoint Prelates even without the Kirk's consent or nomination, since the constitution demanded that Three Estates should be present in Parliament. The Opposition view was not shaken by the lack of execution which had often been incident upon the particular commissions to await upon particular Parliaments which had hitherto conducted negotiations between the two bodies. The zealots reasoned that since Parliament made no claim to representation on the Assembly, the Assembly as its counterpart in the ecclesiastical sphere needed no representation on the Parliament. It was a refusal to admit that the General Assembly was only the separate meeting of the Third Estate and thus only the rival of Burghs and Convention of Nobility and not of the whole Parliament of Estates. (3)

(1) Rait. p. 210

(2) James Melville p. 456

(3) Calderwood V. p. 762

The Convention of Estates which met in Holyrood on December 11th 1599 contained an unusually large number of lairds and Burghs (19 and 8 respectively) and although little would seem to have been done, the Presbytery of Edinburgh was probably emboldened by the representative character of the meeting to address to it petitions in the old manner. Whether these articles were the Presbytery's own demands or the demands of the Commission of Assembly who seem sometimes to have sat in the Presbytery is not clear. Those who were appointed to present them to the Convention were four members of the Presbytery who were also Commissioners who apparently had the entire monopoly of presenting complaints and of dealing in all negotiations with the State. The articles drawn up in the Presbytery were (i) that the King and Estates take order with such as trouble the ministry (ii) That the acts of Parliament relating to the Thirds be strictly kept (iii) To regret the immunity of Papists. No trace of these petitions is to be found in the acts of Council nor does Calderwood have any notice of them. (1)

The General Assembly, prorogued twice was now approaching; The Council had previously fixed its date but the actual proclamation was made only on the 19th March (for the 28th) by sound of trumpet only as we are assured by Row (2) The conferences which the King had expected to do so much had yielded nothing beyond the caveats agreed upon at the July Conference of Synods in Falkland of 1598. These caveats were in fact a compromise between those laid down by Edinburgh and Fife. On 26th February Edinburgh elected its delegates (3) but there is no trace of the Laird delegate who ought to have completed the quota. Their instructions were explicit. The Presbytery of St. Andrews on the other hand made a special effort to gain baronial support (4)

The use of the Privy Conference acting in concert with the Privy Council and the hearing of all arguments not in open Assembly but in private, effectively prevented the exercise of the demagogue rhetoric of the zealots in the public auditory and the minor committee of 4 of each opinion was prevented from obstructing business by the examination of fundamental constitutions, by the King himself.

(1) Edr. Pres. Recs. MS. 10th Dec. "articles to the King and Estates presently to convene"

(1) See A.P.S. IV. p. 190 P.C.R. VI. p. 54 (2) Row. p. 49 P.C.R. VI. 29

(3) Bruce Blyth Cranstoun. They were to keep within the bounds of the acts of the July conference; To protest in the name of the Presbytery if anything were concluded contrary to the word of God, Book of Discipline, Acts of Parliament and of Assembly. They also had petitions as to the planting of Leith and Bruce's pension. (Recs. 26th Feb.) On the actual day of Assembly Lindsay

Dont Bruce Blyth Cranstoun and Thomson (the Clerk) were all excused as being at the Assembly. Doubt seems to exist as to whether the Assembly was on the 18th or 28th. The proclamation of 19th March is not clear. The evidence is in favour of the 18th. Edr. Recs. definitely say the 18th. but Calderwood says 28th

(4) Pres. Recs. St. Andrews MS. Feb. 28th Balcolmie Baron of the Shire was asked to warn the barons who appointed their delegate on the 6th. March.

The zealots anxiety to define the fundamental constitution of both Kirk and State represented a definite tendency, but was also an effort to divert the issue and obstruct the issue on the lines of the later Parliamentary practice. The King did all he could to discourage the diminution of the Prerogative for the advantage either of the Assembly or Parliament and had no intention that the ministry should exercise the civil and criminal jurisdiction. He held that the "King is only judge in the Parliament and the estates give but their advice" (1)

The decisions of the Falkland Conference which were ratified in the Assembly on the point of the "caveats" on the vote in Parliament showed not unnaturally a tendency to stress the power of the Synod. (2) in the choice of a commissioner. The voter's salary was to consist of the whole of the benefice allotted him by the King after the ministers colleges and schools had been provided. The Assembly which was to present the final list of nominees to the King for his selection was also determined to keep a careful watch upon the subsequent activities of the commissioners who were to do nothing without the full consent of the Kirk. The system which was really the Kirk's ideal was practically that of the Comstat Platt, nominated by the Assembly but really the choice of the Presbyteries accountable to the Assembly yearly for their Commission but the form eventually arranged was virtually an admission that a permanent body of Commissioners should exist although they were required to account to the Kirk for their activities. But the Kirk was not left sole arbiter of the Commissioners deserts for the King's consent was necessary for alteration of the Commission. But the majority of the "caveats" pointed to the fact that the Assembly did not contemplate within itself a permanent unrepresentative body for it was insisted that the voter should not be there ex officio but simply as representing his Presbytery as one of its three members. These cautions were to be insisted upon by act of Parliament and within itself the Assembly insisted that uniformity should be observed. None henceforth was to question the Vote in Parliament having been now officially accepted by majority vote...an obvious attempt to bridle the diatribes of the minority of zealots. (3)

(1) C.VI.p.9 of Rait. Judicial Functions p.457 (Plts of Scotland)

(2) For every voter the Kirk was to nominate 6 from whom the King should choose 1 who was to be admitted by the Synod; The G.A. nominated the list to the King but only on the written recommendation of the Synod and Presbyteries. The Synod had power to nominate as a representative a fit person even although not within the bounds of that Synod. i.e. not necessarily a qualification of residence within the bounds. see B.U.K.p.959

(3) Andrew Melville although debarred from Assembly by the University Act was present probably on some kind of defiant commission from his Presbytery. Although discharged by the King he remained in constant communication with the zealots

Thus the Kirk was determined to have full control over its representation in Parliament. Although in point of fact the power would be in the hands of a group who might be almost permanent the Assembly had long been accustomed to the group system and it was thought that the numerous checks upon arbitrary power would prevent the voter from being other than obedient to the will of the General Kirk.

Once more the General Commission was appointed its numbers increased to 26 to include several of the extremists but the quorum of 9 enabled the King to select his associates as he should anticipate their advice. The duties of the Commission were comprehensive as usual i.e. to plant kirks in burghs (e.g. Leith although the Presbytery had protested that this belonged to its function alone) to consider quarrels between ministers and King, to consider the constant platt etc. It combined the duties of the old particular commissions to await upon Parliament and Convention. A sub committee of the Commission was appointed to await upon the Convention (1) but as the articles were first discussed with the King before their final form was placed before the Assembly itself it was quite clear that no startling demands would be made. They demanded formal execution of acts against Jesuits and the resisters of excommunicate Papists, for regulating the minimum age for marriage and for prohibiting the marriage of adulterous persons.

A Convention otherwise unrecorded seems to have met at Perth about the end of March or the beginning of April and it laid down regulations for enforcing the poor laws. That the Kirk Commissioners were in attendance is clear but there is no trace of their influence beyond this. The Presbytery of Edinburgh on April 29th on learning of the "Act of Perth" took order for dealing with the poor of its bounds (2)

The famous convention of June 20th which although not officially recorded is noteworthy as having refused the King's demands for money for prosecuting his English aims (3) There is no record of the presence or of the petitions of the Kirk representatives. The leading spirit in the defiance was Gowrie who within a short time after was concerned in the famous plot in which the Kirk and ministry were so interested. The circumstances certainly looked suspicious and the plan was quite in agreement with precedent. A second Ruthven Raid would have been very opportune for the schemes and the political ideals of the zealots. (4) The ministers who refused to believe the

(1) Lindsay Bruce Nicolson Andrew Lamb W. Cowper A. Lindsay Spottiswood and the King's ministers.

(2) R.P.C.VI.p.98 28th March and 1st April. Edin. Pres. Recs. April 29 Commissioners were deputed by the various parishes. The West Kirk sent 3 Lairds The Town sent 4 delegates including 2 bailies. Leith sent a bailie, Jeremy Lindsay (son of the minister Holyrood sent 2 citizens for general consultation

(3) P.C.R.VI.p.121 (note) R.C.B.II.pp72,86,89,

(4) See Andrew Lang's discussion of the point in his "Gowrie Conspiracy".

King's story were just those who would have been most likely to benefit by a coup d'etat. Bruce in particular was probably more deeply involved than he or the minority of zealots would ever admit. The refusal to give thanks for the escape was an act of obstinacy which seemed to claim for it: self a right to question the prerogative of the Crown in the matter of treason. The atmosphere was therefore strained when the King and Commissioners of Assembly agreed upon a general meeting of Synods to consider this and the Parliamentary questions in September. (1) The object was to obtain a kind of representative convention of ministry to remain in attendance upon the Commissioners of Assembly or at least to give them more formal warrant for the petitions they were about to make to the Parliament appointed to meet in November. While little trace had been evident of the activities of the commission and sub commission in relation to the Conventions of Estates it was obviously felt that Parliament merited more serious consideration. Accordingly at the Synods the King advised that two delegates should be appointed to meet with the commissioners of Assembly not only to consider the question of the recalcitrant Edinburgh ministry but to "consult upon such other things as shall be thought good to be propounded in name of the Kirk" both for the weal of the Kirk and for the King in the Parliament. These Synod Commissioners therefore corresponded to the old augmented councils which Edinburgh Presbytery had been used to summon for advice. The system had now fallen into the control of the King. For him it meant the preparatory meeting of one of his Separate Estates of Parliament composed only of the ministry and therefore with no universal appeal to the laity. The fact that he was also able to preside also enabled James to be certain that no subterranean opposition should raise its head without his being made aware in some way of its existence.

The case of Bruce and the Edinburgh group was not such a good one that the Synod delegates would risk all for them. It must be remembered that the majority of ministers did really think that the solution for all financial problems and for the chief non political claims of the Kirk, for the amelioration of the poor, for education and for discipline, lay in obtaining formal recognition in Parliament. The minority only held out for exclusion from representation on the ground that the Kirk ought to be strong enough to dictate its own terms to the Civil Power. The trick resorted to by the King

(1) C.VI.p.82 The Commissioners had agreed upon this with the King in consultation in Falkland. The Presbytery of Edinburgh had been dealing with them and with the King for long to obtain the return of the Edinburgh ministry (discharged 12 August 1600 R.P.C.VI.p.148) and sent delegates to Falkland without effect. The intermediaries were now almost exclusively the Commission and those members of it who were the friends of the King. Bruce himself was a member of the Commission. Pres. Recs Edr. 19th August et passim

see Petrie p 554

to secure the absence of the Fife zealots while the proposal was made to appoint the first bishops by formal title without regard to the caveats, showed that there was a feeling that the eloquence of the extremists was a force to be reckoned with, that without the "reasoning" upon which James Melville prided himself, the arguments of the Royalists which promised more material benefits prevailed. The evidence goes to show that the invective of the zealots exercised a kind of terrorism over the opinion of the moderates, and that there was emulation for "godly" turbulence which was not evident when the leaders of the opposition had been removed. Election in the Synods had (1) apparently been free. Why should the absence of 3 members be regarded by the Presbyterian writers as being of such fatal consequence. The ultra Presbyterians had so concentrated power in small groups that the centralization involved confusion if the leaders were employed in minor roles. The Royal Policy was to overthrow this personal influence and replace it by an organization oligarchic still in constitution but subject to the King.

The three Bishops appointed by this Convention of Commissioners of Assembly, Commissioners from Synods and the King were Lindsay who was made Bishop of Ross, Blackburn who became Bishop of Aberdeen and Gladstones who became Bishop of Caithness. By the time of the Parliament Douglas had been made Bishop of Moray. As Matheson points out all these were men who had served as visitors and commissioners for these and other provinces. To men like Davis Lindsay the change was purely nominal and there was little difference between the Bishop Commissioners of 1586 and the new creations. Thus a Convention of the Kirk had practically rescinded the caveats of the Assembly. James was using the methods of conventions alike in Kirk and State. Yet none of the new Bishops rode in the formal riding as Bishops for Episcopacy was not reestablished. They were still only voters for the Kirk holding a bishop's benefice by way of salary. Neither were they elected to the committee of the Articles for two titular bishops and 5 titular abbots sat there for the Kirk (A.P.S. IV. p. 194) In the Parliament were large numbers of burgesses and lairds who were apparently unconcerned at the innovations. In any case whether the presence of these voters although only 4 in number had any influence or not, or whether the Commissioners of Assembly had so arranged business with the King the Acts of the Parliament of November certainly showed that the representations of the Kirk received due response. The Acts of the vague conventions of March April at Perth and that of June so far as they concerned the Kirk were ratified thus indicating that the Commission of the Kirk had carried out its functions although little result had been announced. The acts traceable directly to Kirk influence were

(1) See MS. Pres. Recs. St. Andrews. 11th Sept. 1600 Synod of Fife met 23rd Sept See. Calderwood. VI. p. 82 No Synod records are extant.

practically direct answers to the Kirk Articles (cf B.U.K.p. 952) i.e. ratification of religion (c.25) an act against non:comm:unicants in which feud was declared to be no excuse and graduated fines were attached, (c.26) an act against excommunicate Papists Jesuits and their reseters (c.27) an act anent beggars which was a ratification of the act of Convention and which the Presbyteries e.g. St. Andrews had already put into practice; an act against the marriage of adulterers (c.29)

What was the attitude of the localities to the Bishops in Parliament. Although the Synod of Fife subsequently censured Gladstones for answering to the name of Bishop in Parliament there is no record in the Edinburgh records of criticism of Lindsay. The Commission of Assembly as a body was interested in the main business of rooting out the Papists. Its letters directed to the Presbyteries seem to indicate a desire to sink these minor differences as to Kirk Government in a united campaign against the "traffickers". Each Presbytery was called upon to collect information in the old manner and to send delations to the central commission or to the King's ministers. In the old days the Edinburgh Presbytery had a standing commission for this type of work but now all is centralized still in Edinburgh certainly but now within the Court circle. The Presbytery of the Capital was still used and very frequently the Commission simply sat with the Presbytery but the organization was now no longer separate and complete in itself without the King. Haddington discussed the letter of the Commission on 14th Jan. 1601 urging the Presbyteries to execute the late acts of Parliament against Jesuits in particular St. Andrews of course took direct action and made particular representations at once to the King urging the summoning or permission to summon the Synod before its time to deal with the abuses within the bounds. The dependent attitude of even the most intrepid of Synods is exemplified in the request that "His Majestie writ to the best affectit gentillmen to be present and assist the assemblie (Synod) (1) The Presbytery of Edinburgh obviously now was no longer the leader. The permanent commission had taken over most of its powers but the fact that several of the Commission were also members of the Central Presbytery gave it sometimes a shadow of its former authority, although it received no preference in the official relations with the Commission except in so far as it naturally received information and letters earlier than the others. While Parliament itself was sitting the Edinburgh Presbytery had a recrudescence of its old power (2) but such influence as it now held was but the

(1) Pres. St. A. Recs. Jan. 22nd 1601 "The quhilk .. the Presbyterie weying the greit danger that was liklie to ensew be the resorte of Mr. Johnne Hamyltone and utheris seminarie preistis w^y. in thir boundis Hes desyrit Mr. James Melvill Moderator of the last Synodall assemblie to writ to his majestie shewing him that the present necessitie crawit the haisting of the Synodall befor the ordinarie tyme"

(2) On 5th Nov. 1600 the Edin. Pres. sent Lindsay Lamb Blyth and Muirhead to congratulate Mr. de Rohan lodging in the Canongate "ane nobleman of France quha is come in the countrey

reflection of the influence of the General Commission. Neither Haddington, Edinburgh nor St. Andrews contain evidence in their records as to the composition of that conference of the ministers of both parties which met in Burntisland on the 3rd of March 1601 (according to Calderwood). Unless the Synods were again used or the meeting was of nominated persons only, the Presbyteries bore no share in the proceedings although the question of the Edinburgh ministry and the General Assembly was under review. The meeting in fact would seem to have been a reinforced Commission of Assembly with no official position and capable of dealing with the King only through the Commission. Davidson's belated attack upon Lindsay for accepting the Bishopric, in the Synod of Lothian which met in April was hardly reasonable. Lindsay since 1560 had been a prominent member of the Assembly and had witnessed all the vicissitudes of the various kinds of Bishops, and Commissioners. He had always been moderate in his views although when a question of principle was at stake one of the King's most powerful opponents. That he now accepted the situation was an argument to show that in the existing state of the economic, social and political outlook Episcopacy was almost inevitable in some form. For 40 years he had been a member of the numerous temporary commissions to King and Parliament, of the "representative" commissions which prevailed from 1593-1596 and of the General Commissions since then. "True Blue Presbyterianism" was a comparatively recent growth in Scottish and with Lindsay as with several of the older generation there still lingered the idea of the Superintendency. He was now himself a member of that Privy Council which for so long he had petitioned without effect (P.C.R. VI. p. 187). Davidson, so anxious to point out to others their duties, seldom betook himself to his own parish business. If "Boters" might be distracted from their functions as ministers, what was to be said for Davidson who seldom if ever even when at liberty to do so attended the Presbytery meetings but wandered all over Scotland playing the part of a universal agitator. Apparently because of his "inspiration" the ordinary rules of conduct did not affect him.

The General Assembly fixed by the King and Assembly was altered by the Commission in collaboration with the King to 12th May and elections were now in the air. The efforts to obtain a strong lay element in the Presbyteries were not successful. Edinburgh sent only ministers, Haddington but 2 (one of whom did not go) while St. Andrews representation is not given. The Assembly was described as the Assembly of the Kirk in the quhilk the King's Majestie with his commissioners of the nobilitie and burrowes were present. The feature of the Assembly most remarked was the complete domination which was exercised by the King over the proceedings. Although the Kirk might choose a moderator the real ruler of proceedings was the monarch himself. He even led the way in professions of godliness (C. VI. p. 112) and zeal for the remedy of the "defection of all Estates from religion". But his censorship of the letter of

James Melville resigning from the General Commission was actuated by party animosity. Why he permitted Davidson's letter to be read is explicable on the ground that the agitator had not that reasoned appeal which he dreaded in the younger Melville whose arguments as a member of the Permanent Commission might be difficult to refute. (see James Melville's Diary p.490)

The universal catalogue of the vices of all estates is reminiscent of the enthusiasm of 1596. The ministry accused themselves of negligence too hasty admission, distraction from duty and lack of gravity but many of the defects of the ministry could be laid to the account of the Court which alienated the Thirds and prevented the execution of discipline.

In spite of the Royal influence and in spite of the fact that the King was present at most of its sessions the Assembly persisted in its policy of criticism of the Civil Power. Especially did it criticize the appointments in Court Council and Session of suspects in religion and petitions on the point were submitted to King and Council. On this occasion the King did not suggest that the Kirk was "over curious". The Assembly discussed also the education of the King's children and the King agreed to follow the Kirk advice. Not only the Royal Children but the Children of Noblemen were discussed in relation to their education. The foreign tours under suspect pedagogues were always suspect and the Assembly now petitioned that such tours must be conducted by a tutor approved by the Presbytery, that only such countries should be visited wherein there was no restraint upon religion, and finally that an act of Council be made that in the event of these children changing their religion they should be debarred from all succession.

The old question of Papist immigration was revived. The regulations of the '90s had fallen into disuse. Skippers and mariners brought in Papists and traffickers as passengers with impunity, and without fulfilling the condition formerly exacted that they must produce these passengers before a magistrate and Kirk Session. This condition was reenacted and the Council petitioned to make an act forbidding the landing of such persons except at ports where there was a magistrate to receive them and the masters of the ships were to be heavily punished by confiscation of their goods for the contravention. Closely connected with this attempt to develop a passport system was the censorship of the press and particularly of the books disseminated throughout the country by these Papists and their agents. Petitions were thus addressed to the King and Council and the King's support invoked personally as far as possible. The method showed no advance nor any attempt to organize a movement in Parliament. The appeal to the Privy Council was a recognition of the fact that for practical purposes they were the people most likely to be rulers in the Articles should a Parliament meet (see Rait. p.371)

The universal panacea for the evils of nonplantation and the poverty of provision was recognized to be the Constant Platt which should allocate a fixed stipend out of local rents and teinds for each minister. The business had been progressing

for some years since 1592 when a definite proposal on the point had been made. In 1596 and 1598 other efforts had been made but the response was slow and Lindsay's scheme was more or less unworkable (1) The King since his victory had been making more responsible endeavours and once more a special committee was nominated to deal with the Officers of State to come to some definite arrangement on the point. (2)

To meet these concessions on the part of the King the Assembly ratified its enactments as to the discharge of particular applications—an act in defiance of Davidson's diatribes in the contrary in the recent Synod of Lothian. The Assembly although eager to prosecute all means against the Papists and to exercise as far as was permissible a religious test upon the Civil Officials was moderate in its views and would not risk the Royal displeasure for the sake of the Edinburgh brotherhood who were not altogether popular among the other Presbyteries.

The General Commission was almost necessarily renewed. All negotiation with the Civil Power were now in the control of this group. Their numbers were almost constant at 24 plus the King's ministers although the same persons were not automatically reelected. In the 1601 commission 18 of the 26 had been members of the 1600 commission. The idea of the Commission as the Privy Council of the Church persisted. They were to be a permanent advisory board on ecclesiastical affairs, and their duty was "not only to advyse and awaite upon such affairs as salbe for the weill and utilitie of the Kirk bot also for giving advyce to ~~the~~ his Majestie anent the halding furth of the enemies of the same in qehen they salbe requyrit be his Hienes therto" They were to "plant" the chief towns particularly Edinburgh now without ministers (but the Presbytery of Edinburgh had to be consulted on that point) they were to try ministers with whom the King was offended they were to present all these proposals as to Papists etc to the King and Council, Convention of Estates or Parliament. The majority of the General Commission were also members of that Commission for visitation numbering 26 which was definitely stated to be an attempt to organize examination of the ministry the patrimony and provision according to shires. All power in fact was being concentrated in a group of people numbering about 30 who should look to the King for initiative and the effort to include the extremists was for the purpose of drawing all men of note within the charmed court circle. The group in fact had the whole power of Assembly during the interval. The sole check upon it was the "allowing or disallowing" of their proceedings in the subsequent Assembly (1601 C.Vip. 124)

The King's speech at the conclusion of the Assembly (3) revealed the tendency to bargain for the Kirk's influence on public opinion. His solemn vows to execute justice and support religion were responded to by the ministers' vow to "give a good estimation of him in the hearts of the people"

(1) See Connell on Tithes. I. p. 108-109

(2) 6 ministers to meet with the Chancellor, President, Secretary Collector Comptroller Sir P. Murray and Mr. G. Young.

(3) Note the tendency to make the first and last days of the Assembly the important meetings.

In the report which James Gibson brought from the Assembly to the Presbytery of Haddington the position was even more clearly stated "The King's confession of his no doing of his office his promise and aithe to defend the religione and to execute justice etc. His Majesties desyr desyring of the ministeris to move thair parochineris to his obedience"(Pres.Recs.June 3 1601)

Although in this instance the delegate brought home a fairly accurate account of the Acts of Assembly frequently important enactments were unknown in general to the Presbyteries e.g.as late as August 1601 the Presbytery of Haddington was ignorant of the act as to marriage age passed in the Assembly of 1600).

This amity and union between King and Kirk lasted throughout the year.The Synod of Fife certainly at the end of September returned to the charge with fresh complaints and grieves,but the practice which the King had maintained of sending commissioners to watch over proceedings certainly had a modifying effect. The Presbytery of Edinburgh persisted in its petitions to the King for the re establishment of the Edinburgh ministers but they do not seem to have had any direct contact with the King save through the medium of the General Commission. The days of the old "ratings" were over.The Commission was also formally established as the "watchtower" of the Kirk especially with reference to the Papists.The King was certainly involved in Catholic intrigues at this time but he evidently managed to deceive the Commission fairly well.He himself wrote to the various Presbyteries just as frequently as the Commission did. He wrote precise letters for information in detail for the Constant Platt and threatened loss of 1/3 of stipend to those (1) did not respond.The bait of provision persuaded the Commission of the King's honesty.Their letter sent out to the chief Presbyteries urged the ministry while dealing with the noblemen and chief men of the bounds to apprehend the danger to religion and their own estate if the Spaniards should prevail,to persuade the country of the King's sincerity in the cause of religion (2)

Yet in spite of the Commission's supremacy the Fife and Lothian groups still showed a tendency to coalesce.Thus when the Synod of Fife was contemplating making an appeal to the King on behalf of Bruce it sent delegates to the Edinburgh Presbytery to ask their support.But the Royal methods spreading down through Synod to Presbytery bridled ill considered motions by the appointment of the Lairds as watchdogs over the "applications of the ministry,and Andrew Melville's warding for the same fault prevented a combined and organized action.On one or

(1) Pre.Recs.St.Andrews.June 3rd 1602

(2) The letter is preserved in the register of the Presbytery of St Andrews from which Claderwood copied it.(Recs.Feb.4 1602) It is also extant in the Edinburgh Records.Jan.27th 1602)

(3) Edr.Pres. Recs.13th April 1602 The Presbytery itself through the Commission had petitioned for relief from taxation for those holding vicarages(9th Dec.1601) The Town Council was willing to do everything reasonable for the return of its true ministers but not to alienate the King as he had threatened.The Council was rebuked by the Presbytery for sacrilege in using Kirk Rents.

occasions when either the Commission was negligent or when the circumstances were fully known only to the Presbytery, the Edinburgh group reverted to its early method of direct appeal to the King. It seems clear that the Commission of Assembly was not their intermediary on the occasion of their complaints as to the French ambassador's mass. One of the delegates sent to represent the case to the King was certainly a member of the Commission but he went as a deputy of Presbytery. The deputies (Hall and Hewat) urged the King to "consider the inconveniences that is lykly to fall out be report that the brether heiris of a priest that says mass to the French ambassador's cumpanie". James went so far as to question the Ambassador on the point who swore that he had not attended any such celebration and offered to remove from his suite any who had so offended against the laws of the realm (Pres. Recs. Edr. 18th August 1602). But these instances of separate negotiation between Presbytery and Civil Power were becoming increasingly rare. In the majority of cases all complaints passed to the King through the medium of the General Commission or rather that inner central group which, once the leaders of the Opposition, had now merged themselves into the Royal schemes of organization. This inner group was indeed an Edinburgh group consisting of Lindsay Hall Pont Lamb Galloway with others "adjacent". In a sense therefore the individuals of the Presbytery still preserved their supremacy although the Presbytery itself as an institution was no longer the initiator of public business. (1)

The Assembly fixed in 1601 for July 1602 had been altered by public proclamation to November. This proclamation inferred the right of the King to alter dates of meetings at will. The alleged reason in this case for postponement was a plausible one. It was stated that the "maist wechtie effairis of the Assemblie resolvit in Commission". These commissions were seldom fully executed as the King knew from his recent practice of attending in person. Such business as the Constant Platt he knew to be incomplete and by postponing the date on his own authority the King hoped that all commissioners would be ready with their reports when the appointed day should come. (2)

Elections were therefore about to proceed. Edinburgh although anxious to have lay lairds in attendance upon the Assembly shows no nomination of others save ministers and those consisting of Balcanquhall Aird and Balfour were an apparently tactless choice. The sederunt (one of the few extant) shows a complete absence of barons although the Commissioners of the Burghs were present in small numbers.

(1) The Presbytery of Edinburgh revived summary excommunication within its bounds for cases of murder (Sept. 29th Recs. Edr. Pres) and made an overture to the Synod that when a murderer was not put to the civil horn he should be excommunicated in the first place by the Kirk. They put this into practice. How it might be asked was the Presbytery to know the truth of the charge until formal criminal trial had been held.

Galloway and his 27 Assessors were practically another name for the group which composed the General Commission with the addition of a few of the zealous such as Balfour Balcanquhall and James Melville. 15 at least were present members and the others were drawn from the previous commission of 1600. Thus if as we know the power of this Committee was coming to be of paramount importance in the Assembly it meant that the General Commission was practically its own judge. Yet in this instance the written report of the activities of the Commission was produced and read in open Assembly without apparently being discussed in the Privy Conference. As the King was there however and as no doubt the report had been very carefully prepared beforehand there was no necessity to use the weapon of control of these Assessors which James later was to manage with such effect. The proceedings were voted on in open Assembly and each particular commissioner was asked for his opinion by the Moderator. The result was complete approbation. But the other commissions had achieved little. The Visitors had not been diligent, the ministers appointed to deal with the Papist Lords in conference had either gained no advance or had merely neglected their opportunities. It was felt that when the Edinburgh group in the Presbytery had conducted affairs more results had been achieved. The two systems were therefore combined in the scheme accepted by the Assembly for dealing with the Papist menace. Prominent ministers of the evangelical type were allotted to each suspect Lord to remain with him for a period of 3 months. Whenever these Lords were known to be in the Capital the Presbytery of Edinburgh was in its old fashion to send two of its number to continue the good work in the interval. A great deal of "intelligence" would thus come to the knowledge of the Kirkmen who were thus practically spies upon the Catholic party. Such intelligence was too valuable to be neglected by the King for whatever end. These spies were appointed to report from time to time to the King himself. James had no desire to repeat the experiments of 1593. He was determined as far as possible to control the Kirk's power of influencing public opinion.

The first hint of opposition was produced in the 4th Session when the "Greeves" of the Synod of Fife were presented. These were comprehensive and numbered 14 in all, showing on every point the guiding hand of the Melvilles. They complained of the alterations of the Assemblies without the "knowledge" of the Presbyteries and Synods i.e. individual advertisement; of the citation of ministers before King and Council, but the King had got over this difficulty by using the "advice" of the Commission; application in all sermons was now forbidden under pretence of the Act of Assembly. In reply the Assembly could not give any general decision as to how far personal application could be permitted and referred the question as an overture to the Presbyteries.

But the Synod now proceeded to consideration of the constitution and composition of the Assembly itself. It attacked the Commission system, as prejudicial to the liberties of Synod and Presbytery. Fife strongly resented the group system now that it had passed from its control.

The limitations or caveats had never been exercised or tried in relation to the Commissioner voters in Parliament. In point of fact they had had little opportunity for exercising their powers. The Synod attacked the immunity of excommunicates and the insincerity of the Papist Lords who had been relaxed from excommunication. In their anxiety to regain for the Kirk its old position as the true exponent of public and anti-papal feeling the Five members made a claim which was accepted by the Assembly which practically involved a demand to be made acquainted with all important affairs of State. They said that the Papist correspondence and intercepted communications were kept secret "and the danger imminent thereby to the Kirk not communicated to the watchmen whereby they may make faithful warning and prevent the perrell". The Assembly agreed to urge the King to inform the Presbyteries when necessary.

Having thus discussed the relations with the Civil State the Synod proceeded to make its observations upon the constitution of the Assembly itself. Why it demanded were the doctors now debarred from Assemblies when by the book of Discipline they definitely were allotted a place in government. In point of fact the exclusion had affected few save the doctors of St. Andrews. The Assembly therefore found that a doctor might vote in Assembly provided he came with a lawful commission. Whether he came as an ecclesiastic or as a lay elders was still left doubtful. Once more there is evidenced that distrust of a majority vote. There is a distraction of opinion different from that consent of hearts which has been in the Kirk before in weighty causes. The appeal for more "reasoning" was an effort to prevent narrow majorities carrying all before them "almost the halfe of the brethren gainsaying". The zealots seem never to have been able to rid themselves of the idea that their inspired eloquence if allowed an opportunity would have overthrown such majorities. The movement was certainly an appeal for a free discussion and lengthy debates which were unknown in the corresponding Parliamentary constitution upon which the King was undoubtedly attempting to model the procedure of the Assembly. But a unanimous vote was no longer possible on such questions of expediency as were now the concern of the Kirk. There would never be "sufficient" reasoning until the majority vote went the way that the zealots desired it, and they had not questioned a vote which went in their favour in 1600 when the majority was only 3.

In spite however of such criticism the General Commission had become so necessary to Kirk and State as the permanent bond between King and Assembly that it was almost automatically renewed. A fresh commission was of course given on every occasion but the individual members of that commission were practically constant. Of the 25 ministers who formed its personnel 20 had been members in the preceding year and the rest had served on former commissions of the same nature. The group was narrow but it was also wider than the similar group which had directed affairs during the period of the Spanish Blanks. Its powers were of the same kind as before in almost identical terms i.e. complete control of all negotiations between Kirk and ministry and King Council and Parliament.

Many indeed of the petitions with which they had been entrusted in the previous Assembly had remained unanswered. The persistent ineffectiveness of Scottish Statute was obvious to the Kirk. Once more the pleas as to non communicants whether Papists or simply those at feud were repeated. The King's personal interest was of more value than formal enactment, especially if that interest was a financial one e.g. the penalties for non communicants were to be put into operation by the King's Treasurer. and similarly the King gave a personal assurance that no warrant for foreign travel should be given by the Secretary unless the recipients satisfied the act of Assembly on the point.

The Sabbath breakers it was now recognized would not cease from their work at "the fishing" and the salt pans without some fines by civil warrant and the new General Commission was advised to urge this to the King as a remedy. Even the Monday holiday (1598) had not been sufficient to stop these abuses. Probably like most Scottish Acts it was not operative.

The General Commission had thus been fully approved. The other important Commission which had been appointed to confer with the Officers of State on the question of the Constant Platt (it had really been a kind of sub committee of the General Commission had no such simple task. The economic problem was the key to the situation as it had always been, but the King no longer considered the Platt of 1596 as the most suitable for his ends. The results of the deliberations of the joint ecclesiastical and civil board were formulated in the three alternatives submitted to the Assembly. It was readily acknowledged that the temporary and annual assignments (see the Book of Assignations in the General Register House) were not the best means of paying stipends. For years the tendency had been to allocate as far as possible stipends from the local tithes by bargain with the tacksmen and owners of tithes. The tacksmen had in most cases refused unless they were assured of the perpetuity of their tacks and it was on this rock that the scheme of 1596 had come to grief. This therefore was the first suggestion that bargain should be made with the tacksmen, The sub tacksmen receiving the like security for the tenure of their tacks for the space of 19 years. Only so could stipend and augmentation be bargained for.

The second alternative was the complete dissolution of all prelacies leaving only the principal kirk to the prelate along with its temporal lands (cf the Act of Annexation) while the rest of the Kirks should be supplied with qualified ministers only the prelate and titulars of the Kirks paying a yearly duty proportionate to the value of the benefice to the King. This was undoubtedly a confusion of the existing state of affairs. The titular would inevitably have kept the benefice and paid the qualified minister a pittance.

The third alternative was that which was accepted by the Assembly and was a victory for episcopacy. The Great Benefices were to be given to ministers i.e. Bishops who had the responsibility of providing the smaller charges according to the decision of the Modifiers. Of the surplus remaining the King was to be paid 1/10. The die was thus cast for prelacy and mainly on the

ground of provision. The argument undoubtedly was that ministers might hope for more from a fellow minister than from the greedy titulars lay "prelates" who were only awaiting an opportunity to turn their benefices into temporal lordships. Who were to supply these prelacies which by the act of Parliament of 1597 carried with them the right to vote in Parliament. Several had already been provided by the decision of that dubious conference of Synods of October 1600. Having made its decision the Assembly accordingly drew up a list of 25 prominent ministers from whom the King might make his choice. Their names were almost identical with those of the General Commission.

Yet although from a desire to have suitable provision the Assembly might conform very fully to the Royal desires there was evidence that the complaints of the Synod of Fife although answered briefly and somewhat casually in Assembly had supplied a want which although few might dare to avow it in presence of the King who controlled the freedom of speech, was nevertheless felt to be urgent. At some point in the proceedings of the Assembly private representations had been made to the moderator that a committee be appointed to consider in the traditional manner the dangers to religion and the quietness of the country and the remedies. The names of these commissioners are not known but they had power to collect information from the Presbyteries present and to confer with the King on the gravity of the situation. The King must have been suspected of Papist intrigue but the Kirk was determined to keep up the fiction that his councillors were responsible for his actions. It was a pacifist move and may or may not have originated from the Commission of Assembly. Both sides of the question were presented. The dangers from the Papists on the one hand were stressed, but were counterbalanced by the equal dangers arising from the discontent of the zealous. A change of Government it was hinted was the object of those "who either for the present necessity of their awin estate or for hope of advancement and gaine to be had in the change of the present government ceases not be all means to inflame the hearts of such as they perceive to be discontent in any estate...dealing in the meantyme lykwayes with such as are of the most sincere affection to religion and justice that thing is not done in that integritie that is profest". Thus while all dreaded the Papist influence, fear of the zealot influence in the localities was equally strong. The King's peace at all costs must be preserved. A plot such as the Gowrie Conspiracy would ruin all and the moderate kirkmen while dreading Papist intrigues were equally afraid of the rashness of the zealots. Through public opinion the peace of the country was to be maintained. The King was first of all to be informed of such machinations as were beginning to raise their heads in the localities. Every minister from the pulpit was to exhort his congregation to belief in the King's sincerity and to use his private influence with noblemen barons and gentlemen to the same end. The "intelligence" of the Kirk was being utilized

to co-operate with the Royal Authority in very much the same way as in the earlier days it had opposed and rivalled it. The zealous were anxious that the King and Civil Power should be informed of Papist preparations, but the Commission and the moderates were even more anxious that the zealot minority should not raise a faction among the nobility to carry out their plans of Opposition. Although the movement had therefore received impetus from the attitude of the Synod of Fife as it developed it placed both Papists and zealots in the same category as the "disaffected". Sessions Presbyteries and Synods were to collect information and inform the King's ministers and the Commission, and these in turn, following out the suggestion of the Synod of Fife were to inform the localities of the state of affairs as far as was expedient. What it really amounted to was an alliance between Court and the local organization of the Kirk which was without rival in the civil system. The King thus controlled the Assembly through its group system or rather its "Cabinet of Commissioners" and through them the chief strength of the Kirk, its power over public opinion and its system of espionage and "information"

The Assembly fixed its next meeting for July 1604 but long before that the King had succeeded to the English throne. The Kirk took advantage of the opportunity to congratulate the King and to obtain relief for the oppressed zealots. The ministers in and about Edinburgh were according to Calderwood responsible for these proceedings, but the records of Haddington prove that the Kirk was a thorough opportunist in her dealings with the King. The congratulations were perhaps not so spontaneous as they would appear. On 30th March 1603 the Presbytery (1) of Haddington appointed James Carmichael Archibald Oswald, and Robert Wallace "and sic otheris as may merit wt them to ga to Edr. and ther consult and advys wt the Brether ther anent materis concerning the gud of the Kirk In this present occasioun God hes offerit of his Majesties removing off the Realme". The meeting therefore to which the King addressed his famous harangue in the Kirk of St. Giles on the 3rd of April before his departure must have been a kind of unofficial Convention of the Kirk containing many ministers from the adjacent Presbyteries in addition to the ordinary congregation. His promises may have been a public answer to the petitions of the Commission of Assembly and the united Presbyteries (2)

The opportunism of the Kirk was evidenced once more in the famous interview with the Synod of Lothian as the Royal procession passed through Haddington. While professing the greatest loyalty they attempted to obtain pledges from the King as to the future policy with regard to the Kirk and Papist Policy and even to dictate his attitude to the Puritans in

(1) Haddington Recs. MS.

(2) See C.VI.p.222

England. For themselves they asked a permanent order for stipend and the security of the execution of discipline with relief for the zealous who were banished and warded. While promising much in general terms the King was too wary to commit himself even under the influence of his "exaltation". He in turn had his bargain to make. He urged that unity in the Kirk should be observed and in particular that nothing should be altered in the government which had been passed in those Assemblies in which he himself had been present. The Royal Authority in fact must be held sufficient reason for maintain:
 (1) ing all the controversial points. The Synod's efforts therfore had not been an unqualified success. It had barely met for ordinary business and was postponed until advertisement should be given by the Moderator and Presbytery of Edinburgh. (2) who accordingly fixed it for the last Tuesday of May. No sooner was the King safely out of the way than the Central Presbytery began to revive its old activity, for the departure of the King had drawn to London many of the Permanent Commission of Assembly. In the absence of the Court an apathy seemed to settle for a time upon the Kirk and State in Scotland. The Presbyteries went about their normal business and the ordinary execution of discipline visiting Kirks, suppressing May Plays rebuking the lairds for their persistent Sabbath breaking. Of public events there is no echo in their records. In the absence of both a General Assembly and a Parliament co-ordination on a national scale was difficult. Interest revived when in January 1604 the Hampton Court Conference began followed not long after by the Royal Schemes for complete Union not only of the Crowns but of Parliaments and Kingdoms.

Although its records for the period do not survive there is evidence that the Presbytery of Edinburgh was restored in large measure to its primary position as the centre of Kirk organization and "intelligence". It was to the Presbytery that the official version of the Hampton Conference was sent by the King and Patrick Galloway (Moderator of the last Assembly and therefore president of the General Commission). When the conclusions of the conference were received in the Presbytery James Melville was present, and acted a prominent part. Why should he have been in attendance at all. Was the Edinburgh Presbytery with the returned extremists attempting to gather together once more a group of Lothian and Fife zealots who should prove a kind of Counter-Commission to the official Commission most of whom were in London in attendance upon the King. The movement probably came from Fife which had for some time been the hot bed of sedition. In any case Melville's proposals proved that Edinburgh was expected to take up its former position as the watchtower. He expressed sorrow that the hoped-for conversion of England to Presbyterianism should have been so ineffectual and since the sister country remained in the tolls of Episcopacy

(1) C.V. p. 222

(2) Edr. Pres. Recs. May 11 1603; Haddington Pres. Recs. May 18.

the danger from "contagion" should have so increased. For, said he "seeing the Presbyterie of Edinburgh had ever bene as the Sion and watche towre of our Kirk and the ministers therof the chiefe watchemen," it would be well that "they would watche and take heed that no perrell or contagioun come from our nighbour Kirk and give wairning in case there be occasioun to the presbyteries throughout the countrie". The Presbyterie of Edinburgh was therefore to renew its duties as if the Commission of the Kirk did not exist and its powers were to be those which it had exercised before even the appointment of the first General Commission in 1593. But these "sudden advertisements" had a particular application. The project of Union was already afoot and was generally known. James Melville therefore deliberately invited the Edinburgh Presbytery particularly "to take heed at this parliament which is indicted by proclamation and intended for union of the two realms". The situation anticipated in many respects the position in 1707. Organization in fact was in preparation to hinder and prevent the Union upon which James had set his desires. James Melville was therefore present as the universal agitator.

On 12th January 1604 James had sent a letter to the Scottish Privy Council warning them to convene a Parliament for the sole purpose of treating of Union which was to be brought up in the English Parliament in March. The Scottish Parliament was to meet about April 10th and the names and rank of the English commissioners for Union should be known before Scotland proceeded to choose her representatives. These arrangements were not exactly followed out as to date (1) but the system was adopted. What therefore was to be the Kirk attitude to the Union. The Commission of Assembly would by virtue of their commission have to be in attendance upon the Parliament and those provided to benefices would have to register their vote. The authority of the General Kirk was necessary if any real attempt was to be made to make the Ecclesiastical Vote in Parliament the expression of the opinion of the Church. The Commission of Assembly therefore sent out letters to the Presbyteries although only the Records of St. Andrews specifically mention the fact.

(2) On 2nd February 1604 the Presbytery received a letter from the Commissioners of the General Assembly "shewing that the Parliament is to be shortly desyring that the Synode sould convene before the Parliament". St. Andrews accordingly advised with the other Presbyteries recommending the first Tuesday of March and St. Andrews as most convenient a place "on account of godlie and lerned brethren and quher gretest concurrence of gentlemen weill affected to the gude cause ussis to be". Incidentally Andrew Melville might attend for he was still confined within the 6 mile limit. In any case the suggestion was not

(1) C.VI.p.246

(2) P.C.R.VI.p.596

(3) Pres. Recs. St. Andrews MS. Feb. 2nd 1604

not adopted. The Moderator of the last Synod fixed it at Falkland for the middle of March but the King's Commissioner wrote about the same time "shewing that becaus he wes to impart sum thingis fra his Majestie to the Assemblie and for urgent effayris off his Majestie could not be present befoir April" and therefore urging the Presbytery to delay their meeting to the second Tuesday of April as he had req: :uested the other Presbyteries of the province. (1) St. Andrews in vain protested that the Synod ought to be held in their city.

Within the Presbyteries complaints were preparing in St. Andrews a grievance was produced "against ane of the brether adwancit to honour to sit in Counsell and Parliament and Chekker for the weill of the Kirk" and against another member "direct in commissioun fra the Presbyterie to attend on the turnis of the Platt that thei were enoemelle hurt in ther stipendis not being warned be thame". The complaint was common to all Presbyteries and was referred to the consider: :ation of the Synod. (2) We now see the significance of Melville's attendance in the Presbytery at the end of February. Agitation was in progress to attempt to influence the choice of deleg: :ates whom the Synods should commission to attend upon the Commission of Assembly. This was the most that could be ob: :tained although the Commission of Assembly had done its best to follow precedent and to induce the King to permit an Assembly to meet before the Parliament in order to determine the national attitude of the Church to the Union. The Synods and Presbyteries had attempted to bring pressure to bear upon the individual members of the Commission who themselves were anxious to hold an Assembly. The King stood by his decision that the General Assembly had no concern with the Union and assured the Commissioners that no attempt would be made to prejudice the government of the Kirk of Scotland. (3) The individual Synods therefore in sending their delegates to advise with the General Commission pro: :vided them with explicit instructions and there is no doubt that the Melville propaganda was responsible for the attitude adopted. The Fife articles of advice were really the basis. While approving in general terms a project of union they held that the "General Commission" given by the last Assembly did not comprehend any negotiations on this head. What the Commissioners could do was to sue for ratification of all Kirk Acts, and to protest that nothing be done in prejudice of the Kirk Liberty, to demand that none vote in Parliament in the name of the Kirk unless he bore office in and had Commission from the Kirk (i.e. an attempt to guard against the inclusion of Titulars on the Articles) and to charge those who had vote in Parliament to vote nothing without express warrant of the Kirk. Whatever commissioners for union

(1) Pres. Recs. St. Andrews. March 1st 1604

(2) ibid. 29th March

(3) see Petrie p. 567 for an account of the attempts to induce the summoning of an Assembly. Fife wrote to John Hall the Presbytery of Edinburgh to Galloway.

might, be chosen the fundamental principle must be insisted upon that the discipline and laws of the Kirk were unalterable.

The meeting of Commission of Assembly and the Delegates from Synods took place on the 24th April on the very day that the Lords of the Articles were chosen in Parliament. The attitude adopted by the majority of the Synod commissioners inferred that a meeting of the General Assembly was essential. No commissioners of any estate could commit his Estate without warrant. The General Assembly was therefore recognized as the meeting of the Ecclesiastical Estate. This was bound to happen as soon as the Kirk accepted vote in Parliament and the defection of the greater part of its lay element lent colour to the view. The claims to universality had given place to an insistence upon rights as an Estate of the Realm. All the Estates ought to be represented on a Commission to treat for Union and who without warrant from the General Assembly would undertake the duty. The claim that the Kirk was adequately represented in Parliament was rebutted on the ground the representation consisted either of titular prelates whose vote the Kirk had never recognized, or the newly nominated Bishop-Voters who had no authority according to their caveats to commit the Kirk to any thing without express warrant from the Assembly. This may be an indication that the choice of the Articles if not already made was guessed at. Indeed there were barely enough of the new creation to give the full quota on the Articles. If the project of Union was pursued, the experience of the Scottish constitution led the Commissioners of Synods to fear that the same committee of Articles would be used to carry through the international negotiations and while they might compromise on the ordinary choice of Articles no such compromise could be permitted while such important business involving the position of the Scottish Kirk was in progress. The official representation of the Kirk and its advisory body were held with some justice to be under Royal influence. The only course left was that of "open protestation" in Parliament either immediately before or after the choosing of the Articles. The body of Synod commissioners therefore claimed the right to appear themselves although neither members of Parliament nor the officially accredited representatives of the Kirk for dealing with the Civil Power. Lindsay had attempted it in 1584 but without success. The claim was on the analogy of the legal protestations for remedy of law but was of doubtful constitutional authority and it was perhaps this as well as the "Commission's" assurances which induced the meeting to be satisfied with a delegation of the business to the formal Commission of Assembly whose activities were restricted to meet the demands submitted by the Synod of Fife which seem to have been adopted in their entirety by the convention. (1)

(1) C.VI.p.258 for the position with regard to the open protestation in Parliament see Rait.p.401 Speeches by non members.

As it happened however these fears were premature owing to the difficulties in England which resulted in the postponement of the Parliament to July. The Articles however appointed in the April Parliament were practically identical with those of the July Parliament. The Kirk delegation consisted of 5 Bishops and 3 titular abbots while the lists of the barons and burgesses show many names familiar in the records of Assembly (Return of Names. p. 546). How far the Commission of Assembly followed the advice of the convention is not known, but the position is interesting as showing the claim of a Kirk Convention which made no pretensions to be an Assembly of the General Kirk, to supervise and direct a Commission which held its authority directly from the Assembly. In the critical Session in July therefore it is strange that the agitation for the inclusion of the clause protecting Kirk discipline in the commission of Union, should have come from the barons and burgesses and not from the Commission of Assembly which in fact gave the movement little support. The inference must be that the lairds and burgesses having returned to the localities in the interval reflected the public opinion as directed by the ministers and Presbyteries and that this local feeling was not the work of the Commission of Assembly but of the group centring round the Melvilles. (1)

The commission as appointed included Spottiswood Lindsay Gladstones and the Prior of Blantyre for the Kirk but the list was not the nominated body that the King had expected (2). Nevertheless the circumstances were sufficiently alarming and the apathy of the Commission of Assembly so conspicuous that the approach of the Assembly at the end of July was welcomed. Alarm therefore was abroad when at the time of the Parliament Royal letters prorogued the meeting and thus prevented discussion of the Union project in the open Assembly. Discussion and debate in the Kirk Convention would almost certainly have been far more free in spite of the Royal efforts than was possible in Parliament and it was therefore safer to avoid the troublesome propaganda especially if warranted by the Assembly by removing opportunity for such debate. The Fife group and especially the Presbytery of St. Andrews fully recognized the significance of the move, and in spite of the Royal letters resolved to keep the appointed day. The ground for their resolution involved a constitutional question i.e. "because the warrant of keeping was greater than the warrant of continuation". King and Assembly, this implied had more authority than the King alone whether he had the consent of the Commission of Assembly or not. Had Parliament

(1) See A.P.S. IV. p. 262; P.C.R. VII. p. xx. C. VI. p. 263. The activity of the Earl of Morton (the William Douglas of Lochleven who had played such a prominent part in all the ultra Protestant leagues and Raids of the period) showed that the Kirk cause had been taken up by the "Opposition".

(2) A.P.S. IV. p. 264 cap. 2. C. VI. p. 263; Sp. III. p. 157

put forward such a claim the theory of the feudal constitution would have been broken. But it was not a national recognition that the monarchy was not free to do as it pleased, it was a tenet advanced by a small body in a corner of Fife. For it was only the Presbytery of St. Andrews which pursued the principle and in the delegation sent no laymen were present (1) As the commissioners reported after their journey to Aberdeen they found no other Presbyteries present. (2) and the fact that the cancellation of the Assembly had been so recent explained why the elaborate propaganda of the Kirk and especially of the Synod of Fife had not been put into operation although references throughout April and May in the Presbytery records show that such propaganda had been active enough before the Parliament. The famous protestation at Aberdeen taken in the presence of the Aberdeen ministry who were induced by the zeal of the intrepid three to participate if not in the actual protestation at least in the organization of Kirk resistance to the King's arbitrary methods. (3)

There is no doubt that the plan was skilfully arranged so as to prevent the movement being regarded as the local and sectional concern of Fife but it is equally clear that the directing minds behind the scheme were of the Fife brotherhood and that the three went to Aberdeen probably prepared with suggestions to meet all emergencies. The attitude of the Aberdeen Synod was directly attributable to the machinations of the St. Andrews delegation. It was they who suggested that the Synod of Aberdeen should send out letters to all Synods of the realm to request a general meeting of all Synods by their representatives at the time of the convention of the Synod of Fife in September. The purpose was openly stated to be the consideration of a General Assembly although the old pretext of "Papists" so frequently used by both sides was again requisitioned. Intercommunication between Presbyteries even so far distant as St. Andrews and Aberdeen was common, and the Synod expected that the neighbouring "Provincials" would send Brethren "for concurrence" so that some attempt at uniformity might be made. But this practically universal summons to all Synods of the realm to send delegates to a central meeting in Fife meant that summons by King and even by Commission of Assembly was to be disregarded. Such a convention being unlimited in numbers and with no specific provision that only ministers' advice was requested, might very readily have the prestige of

(1) See Pres. Recs. July 25th 1604. James Melville. p. 561 B.U.K. 1009 etc

James Melville Walter Erskine and Walter Murray.

(2) Pres. Recs. St. A. MS. Aug. 9. The brethren quha wer directit in commissioun to the general assemblie schew that thair according therto past to Aberdeine and finding na meeting of uther Presbyteris thocht it ther dewtie to God and his kirk to tak documents and mak protestatioun to be insert in this buik" The printed Records of Aberdeen contain no reference to these activities although Blackburn Bishop of Moray was present among the ministers of Aberdeen who acted as witnesses

General Assembly of the kind in use before the catastrophe of 1596 and the fact that it was to be held in Fife provided that the old zealot leaders especially the elder Melville would direct its policy. The proceedings of the Synod of Lothian in Tranent in August indicate that propaganda was not confined to Aberdeen. It seems clear that by this time the Kirk system of intercommunication which had not had time to operate in order to bring about the Convention of an Assembly in defiance of the King's orders, was in full working order. The sudden zeal against the two bishops Spottiswood and Hall was to be attributed to the fact that the zeal of St. Andrews had shown the way while popular unrest at the suggestion of Union encouraged criticism of those who were known to support it. (1) As usual a popular movement in the Kirk coincided with economic and political aims. Nationalism was the bait with which the Kirk now drew the support of the people in its anti-episcopal campaign. Yet there was truth in the Bishops' claims that their sole aim was to recover the rents of the Kirk. If the Kirk obtained the full "patrimony of the Kirk" taxation must be met and the allocation of such taxation must be by accredited representatives in Parliament. The question of Episcopacy as James realized was a financial one. Other ecclesiastical economic issues were raised by the commercial treaty with Spain and national and patriotic feeling was undoubtedly the cause of the attendance of the "gentlemen" at the Convention of Synods in St. Andrews. Calderwood expressly states that the South and West provided the majority of the representatives but whether this applied to the lay element as well is not clear. Probably it was composed as of old of the Fife barons who were among the best fighters in the Kingdom. Probably it was the consciousness that their meeting was not universal enough which prevented the Synod representatives from constituting themselves a General Assembly as the King had reason to doubt. In any case the extraordinary convention of so many Synods was sufficient to warrant the presence of the King's Commissioner Lauriston who had instructions to discharge them if such an Assembly was constituted. The question of course was a constitutional one and the ministry used the national question to bring the baronial element to their side. Conspicuously absent in the previous Assemblies the "gentlemen" undoubtedly feeling that their interests as a class and an Estate were endangered by the projected union made the claims of the Kirk to independence their own for the time. Without the presence of the barons and their approval of James Melville's arguments the opposition of the ministry alone might very readily have been crushed. Although the Aberdeen delegation which was known to be moderate took the lead the old constitutional strivings of Fife were soon apparent. Their questions went straight

(1) C.VI.p.269 Unfortunately the local records give no assistance. Such subterranean propaganda was not officially recorded especially when the "unsuspect elders" whom the King set as watchdogs over some of the Presbyteries might demand explanation of suspicious entries in the register.

to the root of the matter "Could a General Assembly be held without the King's licence?" James Melville held that it could both by divine right and by civil law as the King had admitted in the Dundee Assembly of 1593 but even there the right to summon itself was bounded by the condition that if King and commissioner were present their advice must be sought. He was a skilful reasoner and by introducing the parallel of the sheriff and the sheriff court, the baron and the baron court attracted the baronial element in the belief that if the Kirk's rights were infringed the next step of the arbitrary power would be to attack the feudal privileges. All this was implicit in the "applause" of the gentlemen mentioned by Calderwood. Where was the Commission of Assembly? Although individual members might be in attendance as an official body it was not present and the whole proceedings contained no reference to the formal commission which ought to have been supreme in the intervals between Assemblies. It was through that body that representations should have been made to the King if the Kirk as a whole demanded a General Assembly. By thus overriding the authority of the Commission, the convention showed that it was rather a party meeting than a conference embracing all opinions. Lauriston made an admission which was not entirely warranted. He agreed that the Kirk might call its own meetings but recommended on grounds of expediency that no such extreme measures should be taken since it would only irritate the King and procure the discharge by the Council. If they intended to summon an Assembly he urged that they obtain the royal permission. His suggestion was for a meeting which would prejudice neither, and at the same time provide an opportunity for a more universal expression of opinion. This was for a convention of all delegates of Synods with the formal commission of Assembly who officially had not been informed of this meeting. Thus the Royal Commissioner was to inform the Commission of a meeting of Synods in Perth in October, both parties in the meantime preparing their programme. The inference was obvious. Lauriston thought and he was probably right that the Synods who had not sent representatives to St. Andrews were following the old Scottish custom and remaining away from conventions with whose views they did not agree. The presence of the Commission in Perth in October would be an indication that the moderates might be heard, and that there was a large body of moderates in the Kirk is clear in spite of the prominence given to the acerbities of the Fife extremists in the Presbyterian histories.

What was the King's attitude to these conventions. He must have dreaded a return to that convention system which from 1593-1596 had practically circumvented his attempts to control the meetings of Assembly and the unexpected support of the gentlemen was another source of alarm. He had no desire to have his policy in Scotland "limited" as it had perforce been limited while Kirk Conventions made claims to control of Council Army and Finance. While permitting this Perth Convention authorized by his Commissioner, he officially

by proclamation discharged all extraordinary conventions of the ministry (27th September 1604)(1)

The quota sent by each Synod is not stated but from local records it seems clear that as usual the real unit of representation was the Presbytery. Haddington sent 2 ministers as did St. Andrews although officially it was the Synod of Lothian and the Synod of Fife which appointed them along with other brethren. (2) The King's Commissioner proposed that a list of articles and petitions should be prepared for presentation to the King and the method he suggested for their preparation was capable of different interpretations. The representative body was to meet by itself to consider its side of the question while the King's Commissioner and the official Commission of Assembly (which made no claim to be representative of the Synods) met also apart. This double chamber method of deliberation may have been an experiment on the model of the English Parliament which might have been applied to the Assembly itself had it been successful. The Commission had now become almost permanent in personnel and with several members of it Bishops in their own right might very readily correspond to an ecclesiastical House of Lords. It may on the other hand have been a genuine attempt to obtain an impartial view of the situation while the weight of the moderates among the Synod delegates might make itself felt in an ultimate vote. If separation of ministers into Nobility and Commons was in contemplation the methods of the "Commons" soon prevented such a scheme and in haste the uni-cameral system was reestablished, for the Synods deliberately set about criticism of the actions of the Commission. Their proposed articles and petitions to the King would have consisted in large part of complaints against the Commissioners. Even when both parties were once more sitting together their accusations were not negligible. An oligarchy consisting of a small group of the General Commission had usurped all the power of the Kirk; in any case their commission ought to have lapsed since the last Assembly had been prorogued; and the new Bishops were voting in Parliament e.g. in the Parliament of April and July without any warrant from the Assembly. The Commissioners professed as great zeal to see the "caveats" kept and professed the greatest readiness to give place to others were it not that the King refused to deal with any others. Before the charges of non residence and "hanting the Court"

(1) P.C.R.VII.p.13

(2) Haddington Records. 25th Sept. 1604. Mr. Robert Wallace and James Carmichael were appointed by the Presbytery "to pass to St. Johnstoun and ther wt. the rest of the commissioneris of the Kirk to regrait the delay of the generall assembly

St. Andrews Pres. Rec. Oct. 4th James Melville and John Carmichael were excused from Presbytery "be resson theiwer directit in Commissioun to St. Johnstoun be the Synode.

they had no defence for unless the Kirk condemned altogether the "General Commission" some persons must devote a large portion of their time to watching over Kirk interests at Court. The only answer could be reference to the General Kirk which had given them their commission. The only petitions therefore which could be agreed upon were in general terms i.e. for a speedy General Assembly summoned in accordance with the constitution and the King's permission. (1) for active measures against Papists (2) for relief for the Puritans in England (cf the earlier attempts to interfere with Elizabeth's policy towards the sect) and for definite and precise order for stipend. The Kirk had unwillingly accepted something like Episcopacy without as yet gaining any profit from the change.

- Lauriston the King's Commissioner was also a member of the Union commission which on 9th October immediately after the conclusion of the Convention of the Kirk left for England. Huntly told the King that the ministers were preaching (3) violently against the project. To grant an Assembly at the suggested date in April 1605 would therefore be a tacit admission of the Kirk's right to pass censure upon the Union negotiations. The anti-union party would in the manner of Oppositions rally round any organized body whose aims were in any way similar to its own. Bruce's removal from Edinburgh his sphere of influence was certainly due to his anti union activities and it is curious to note that in the popular mind deprivation by Council has come to be synonymous with deprivation by the Commission of Assembly many of whom now sat in Council as Bishops. It is little wonder that in face of such opposition to his dearest scheme James should have little regard for the complaints of the Kirk although Forbes' embassy in March of the following year was obviously a last attempt to obtain satisfaction. While for many reasons the King would not submit to have the date of Assembly dictated to him by an extraordinary convention of the Kirk some provisional date had to be fixed and it was arranged that July 1605 should be appointed. The Letter received by the Presbytery of Haddington (1) Pres. Recs. Haddington. 17th Oct. 1604 contains the report of the two ministers sent. They stated that after conference had with the Council (i.e. Commission and Council confused) it was agreed that a petition should be sent to the King "that he be nocht offendit If the Assemblie be kept the 2nd tysday of Apryll". This would infer a determination to hold an assembly in any case -- which was not fulfilled (2) This certainly had the contrary effect in the case of Huntly. The Kirk was alarmed at the great popularity of Seaton who was about to become Chancellor and had long been suspect by the Kirk. (C.VI.p.275) P.E.R.VII 14th Feb. 1605 for Huntly's case (3) Letters and State Papers of James. VI. Abbotsford Club. p.60

would infer that since the previous July the date had been known and this is borne out by the "apologies" of the warded of ministers (August 1605) Was it known when the Conventions of St. Andrews and Perth met? It was not that the interval between the Assemblies was overdue although that in itself was a breach in the constitution, but that they feared that no other date was likely to be set for some time. The date was known when the Synod of Fife met at the end of April and had been arranged between the Commissioners of Assembly in consultation with the King and his commissioners. How closely the Kirk and particularly Fife was watching the trend of the union negotiations and the activities of the new Bishops is evidenced from James Melville's warnings to the Synod. Lauriston was present as Royal representative when Melville's warning was read against submitting to another prorogation and promised to use his influence to see that the date was kept. Fife was now undoubtedly regarded as the hotbed of sedition. The Presbytery of Edinburgh no longer played a leading part in spite of the efforts of Fife to force it to collaborate. Its leaders had gone over to the moderate party and having tasted the power that came from royal favour were unwilling to return to the shadow of power which rested upon popular support "agin the government". The rest who had played such prominent parts in the past were either crushed by the Royal displeasure or were unwilling to offend in the knowledge that the citizens of Edinburgh of any substance would never pursue a policy likely to bring such retribution as that which they had experienced in 1596. The silence of the Edinburgh group throughout the coming troubles is even more remarkable than their former rashness and vehemence. Only once since 1596 had an Assembly been held in the Capital and then it sat within the Palace of Holyrood and under the control of the King. Edinburgh dreaded the removal of the law courts and the Exchequer and would never again risk her prestige as capital. Fife therefore held the field.

The General history of the disastrous meeting at Aberdeen is familiar but the actual sequence of events is not clear. Confusion was apparently deliberately intended by the Commission in the difference of date. If James Melville in April thought that it was 1st July and the date generally given for the South was the 5th it seems strange that the Kirk system of intercommunication did not somehow reveal the discrepancy. On June 7th a Parliament or Convention of Estates met in Edinburgh, according to Calderwood too frequent with the "opposition" i.e. the anti union party and as a result the Parliament was postponed on that day to November 26th 1605. This opposition or rather its presence in such numbers may be inferred to be due to the local agitations of the ministry for the Kirk was doing its best to make the defence of Kirk discipline the national issue. Had the Union Party been in a great majority and the Union project well advanced it seems probable that neither Parliament nor Assembly would have been prorogued. This explains the belated efforts to prevent the

appointment of delegates at all. Thus the letter sent out by the Commission and the King's Commissioner was dated 7th June the date of the prorogation of the Parliament(1) The Commission definitely stated that the King did not desire the Assembly to meet before the Parliament that is he had no intention of permitting the Assembly to prejudice the decision of Parliament by vetoing the Union and the Commission seem to have appreciated the position. (2) In the case of Haddington which certainly received the notice of prorogation the appointment of a delegate was sheer defiance both of commission and of the King. They nominated Walter Hay their commissioner and allocated 40 merks for his expenses. Hay evidently appreciated the fact that his appointment was no sinecure and he solved his difficulties by not going at all inventing some frivolous excuses on the ground of non payment of his fees and lack of commission. The Presbytery which had been educated in the Davidson and Gibson tradition was indignant that none of its members was among the persecuted 19 although Mr Walter himself had no desire for the martyr's crown. On 24th July when his perfidy was known they found that "his not ganging as he was apointit plain disobedience to the presbyterie as also findis his excuse ane plain ly"(3)

The Fife contingent to the number of 4 were present on the 2nd July among the martyrs who took the protestation. The date of the Council's letter (20th June) proves that it was anticipated that in spite of the Letters of prorogation commissioners would attend, in fact Lauriston from his knowledge of the Synod of Fife knew that a plan of defiance would be formulated. The 19 ministers who came on the 2nd July could not really have supposed that they represented the feeling of all Scotland and their appointment of the next Assembly for September was a defensive measure which they probably recognized as impracticable. It was a gallant effort to prevent the entire control

(1) See Return of Names. p. 547

(2) The Pres. Recs. Haddington. 19th June. 1605 The Commission of Assembly wrote to the Presbytery that the King had informed them that "befor the Parliament the samyn (Assembly) cannot be prom.... quherof we thocht meit be thir presentis to meak you advertesit and to desyre yow to stay your commissioneris from keiping of the sayd dyett Becaus it is his Majesties pleasour aganis qlk if we suld attempt we myt Irritat his Majestie and gife occasioun to sik questiounes as we wald have eschewit Bot we culd not profite ourselfis ony thing and thairfore we request yow to tak the continewatioun in gude part And assure yow we ar and salbe all earnest for ane assembly as ony in the Kirk or countrie salbe and sall to our utter power trawell for Manteining of the libertie of our Kirk in everie thing quherin we dout not but ze will schaw your selffis conformabill .We have heirin also sett down the article direct be his majestie anent the Generall Assembly we can nocht resolve in respect of the bysines that is in both realmes befor the aproching parliament Bot theis being endit we sall have occasioun to advyse and direct the maist expedient for the weill of the Kirk 7 Junii 1605 Your brethren the Commissioners of the General Assembly

(3) Hadd. Recs.

Lauristoun .M.P.Galloway.

of the summons of Assembly falling into the hands of the King and Commissioners whom they suspected of acquiescing in the exercise of the arbitrary power. The small numbers who came at the later date (for there were only 10) would indicate that the extremists were only really effective when they had had time to organize the Kirk propaganda in order to arouse the apathy which passed for "moderateness". Spottiswood says that only 9 Presbyteries out of the 50 existing were represented. (1) It was certainly a tenet of the Kirk that according to Biblical precedent "where one or two were gathered together" there also might the spirit of inspiration be, but it was a dangerous principle to insist upon in face of the practical question of what constituted a quorum.

Haddington Presbytery although by the defection of Hay it had no representative present was informed by the Presbytery of Dalkeith of the protestation and discharge (2) and approved the whole proceedings (17th July) and the zealot Presbyteries would certainly have held the Assembly appointed in September had not the Royal discharge of that meeting been proclaimed. Andrew Lang suggests the problem of what would have occurred had James permitted the Assembly to "hold" but summoned one of his own at the same time. It seems certain that the minority of the Fife and Lothian Zealots would not have secured the support of the general body of ministers and laymen.

The Proclamation of discharge (25th July. (3) indicated that while the King and Council felt themselves competent to deal with the insurrection of the ministry what they were anxious about was the amount of lay support which the minority might draw upon, for not only were Presbyteries and Sessions prohibited from sending commissioners but the restriction was extended to "noblemen, barons, gentlemen, magistrates, inhabitants of towns burghs and villages". The old acts against convocations were put into execution. Only the ordinary Church Courts were sanctioned and the laymen were instructed to report any seditious "approbation" of the Aberdeen proceedings to the Privy Council. (4)

(1) Spottiswood. III. p. 157

(2) Haddington Records. 17th July 1605 The quhilk day compeirit Adam Coll commissioner from the Presbytery of Dalkeith and produced ane copy of the hail proces of the generall assembly haldin at Aberdeen the 2nd of July 1605 craving the said proces productit be ratifeit be the sayd presbyterie wt ane act therwpon. The Presbyterie ratifies and allowiss all and hailt the sayd proces.

(3) P.C.R. VII. p. 101; see Petrie's account p. 574; James Melville p. 581

(4) P.C.R. VII. p. 113 8th August 1605

Bruce was still regarded as the storm centre as his warding in Inverness indicates. It was known that he had enormous influence with the barons of Lothian and Fife and he certainly was one of the first to confuse the issues of Kirk discipline and Union.

Although James Melville calls the general questions put to the warded ministers "frivolous interrogatories" it was obvious that they were fundamental enough to require the advice of the best ecclesiastical lawyer. They aimed at investigating the old problems of how many constituted a quorum of Assembly, whether an Assembly could be lawful which lacked representatives from many provinces, and if the representation of 2 ministers from all the country South of the Forth was an adequate representation. In the event of two "General Assemblies" at the same time but in different parts of the country which meeting was the authentic one. Did the ministers consider that their proceedings could be overthrown by a General Assembly called by the King. The Council's legal point of view therefore would seem to have found several holes in the armour of the godly. The civil power realized that the lack of definition of the Kirk constitution was a danger to settled government. Any group of 20 ministers might arrogate to themselves supreme power and this we know from the history of the Covenanting period to have been the logical result of the Kirk pretensions to inspiration. What was even more alarming to the Kirk constitutionalists was the fact that the Crown was using against the Aberdeen Assembly those very arguments of informality which the minority had used in its attack upon the Perth Assembly of March 1596-97(1)

The Synod of Fife by its attitude practically admitted that it led the opposition. If the meeting of Aberdeen was a formal General Assembly, by what right did the Synod take upon itself to postpone the date from September to the following May although it did make a tentative effort to inform the "provinces next adjacent" to have their concurrence. Their proceedings showed great courage although they bore little fruit, for it was resolved that a General Assembly was necessary without delay but while ready to prepare business for the "discharged Assembly" of the 2nd Tuesday of September they felt that their conduct would be open to misconstruction and postponed the date to allow for the explanation of their views to the King. If it came to a choice between obedience to the King and the loss of the freedom of Assemblies they were prepared to choose liberty. It was a claim put forward on behalf of the Assembly which was not applied to the Parliament: ary constitution until the Civil Wars. A supplication prepared for presentation to the King was not sent because upon second thoughts it was seen that unless the Commission of Assembly supported it it had little chance of reaching his Majesty, and it was only through the official commission that the affairs of the Kirk could be made known. James had at last rid himself of the promiscuous advice which he had had to tolerate while he was but King of Scots.(2)

(1) See Calderwood. p. 293 quoting from James Melville.

(2) James Melville. p. 582

The General Commission of the Church therefore was the sole channel of intercommunication between Civil Power and Kirk and the most galling fact from the point of view of the opposition was that these men had in the old days been the recognized group of leaders in the "free" church just as now they were the King's led horse. Had a sense of power been the guiding motive both in their past and present conduct.

- (1) Instances of the "Opposition" propaganda are frequently to be met with. Although the Synod of Fife 5th September drew up a list of causes of a general fast there is evidence that these causes were known before the Synod met. Haddington on 28th August communicated the same causes to the Presbytery of Edinburgh (which now had but a shadow of its former influence) and this propaganda was almost certainly in the hands of a few agitators who were the same people who stirred up the trouble in the Synods and Presbyteries. As the King knew 5 or 6 of the "prophets" in a Synod carried the vote (if a vote was taken for the Synod of Fife strenuously advocated the authority of the best) The vehement rebukes of the Melvilles upon the moderates and the indifferent were as forceful as the threatened but distant punishment of the civil arm. The Kirk in fact from its experience of the civil administration had come to despise statute and it needed the most extreme measures to convince them that the King would not tolerate impunity when his prerogative was infringed however slack might be the execution of justice. This propaganda for "concurrance" is exemplified from the Haddington Records. On 11th September a delegate appeared in the name of the Synod of Fife "making mention of the necessity of ane Generall Assembly suting and desyring our advyse and consent to the prorogation of the day of the Generall Assembly to the 1st Tuesday of May 1606 craving also our concurrance to send ane humbill supplication to his Majestie to grant that ather we might have ane Generall Assembly sooner or at leist on the forsayd day apointit" The Presbytery of Haddington heartily agreed and suggested that instead of the supplication being drawn up in the name of the Synod of Fife only that it should be represented as coming from the "Haill Kirk of Scotland". (2) Unless the Synod delegates approached every individual Presbytery what warrant had a group from Lothian and Fife for supposing that they represented the general feeling of the Kirk. It was simply another form of the group system which had militated so much already against the General Assembly as the

(1) Pres. Recs. Haddington. 28th August and September 4th 1605

(2) Ibid. 11th Sept. 1605 They also added a proviso "craving this claus to be insert wt. in the supplication That seing we understand his Majestie hes bein abusit in respect no sute hes beine delyverit (as ane letter direct from his Majestie bearis) craving ane generall assembly quheras the Sinod of Lowthiane and tweddell convenit at Tranent direct ane letter to his Matie craving maist humlie ane Assemblie and send to his Majestie be Mr Jhon Spottiswood" This must have been a measure of which the Pres. Recs bear no trace

true expression of the public opinion of Scotland. This petition whether or not the expression of the "hail Kirk of Scotland" was in any case never presented. Perhaps the experience of Lothian with Spottiswood opened the eyes of the Fife group to the hopelessness of breaking through the guard of the "Commission". It was recognized however that whatever punitive measures were used to overthrow the recalcitrant before the Privy Council, and however successful these might be, the dangers of the local influence of the ministers upon the barons and the commons were not to be overlooked. There was a dread of a popular revolt such as did occur in 1638 but it was hoped that the interest of the barons as an Estate in Parliament for political and economic grounds would induce them to support the Royal policy. The King felt that the extremists were a minority and that ready payment of stipend would be a strong inducement to the "indifferent" to desert their party. This explains the letter of the Privy Council distributed amongst the Presbyteries stating that although the extremists were being proceeded the general body of ministers would be supported in their authority by the Civil Power so that no Papists and evil doers might expect impunity. Even in the Synod of Fife there was no absolute unanimity and the Royal letters showed it was realized that had the feeling of Scotland been general it would have found more adequate expression than the protest of a small group of ministers. The counter propaganda of the Civil Power was as effective in many districts as that of the zealots. And fears as to the General question of the Assembly were somewhat allayed by the proclamation of an Assembly for July in Dundee (although no year was given) (P.C.R.VII.p.127) But the proclamation definitely asserted the claim of the Estates to a supreme place in the Government of the Country. Under no circumstances would the King admit that the Assembly had wider claims than any other separate meeting of an Estate. He promised indeed that there should be no sudden change either in civil or ecclesiastical government without the consent of the Estates and "the wisest and best sort of them whom it most properly concerneth" but it was suspected that these might not be equivalent to a General Assembly. Together the "wiser" sort of Spottiswoode's description and the "best" sort as represented by Melville may have composed the Universal Kirk but it was unwise for ~~with~~ party to claim that they and they alone represented the true feelings of the Scottish Kirk and Country. Neither would admit that the General Assembly was as much ridden by the party system as the Parliament. The minority in any case would be persecuted as did happen in the "Troubles" 40 years later. Protesters and Resolutioners would never admit even as a hypothesis that their party might be "mistaken" even on a question which after all was only one of political expediency. That the zealots or the "best" did not as yet represent the full current of national opinion is only too evident from the ease with which the agitation was suppressed. The Royal Party undoubtedly was strengthened by the outburst of loyalty which

followed upon the Gunpowder Plot. The suggestion that as a thanksgiving the warded ministers should be liberated was nor welcomed for the King held that if the Papists sought his life the ministry sought his Crown. (1) Although several had submitted the majority of the warded ministers would not admit any fault for they held that if any attack was to be made upon them the Synods and Presbyteries who had commissioned them were responsible and not they themselves as individuals. But the Royal policy had always been to prosecute individuals rather than raise constitutional questions on general topics. e.g. the discharge of the Commission of Assembly in 1596 was not against that body as a whole but against individual ministers who were named. In point of fact that position had several points in common with the situation of that fateful December. The great numbers which attended the trial in January of the 6 ministers warded in Blackness, resulted in conferences in Linlithgow which were reminiscent of the Kirk dealings with the Octavians. The numbers of ministers present were as great as those normally present in an Assembly. At one party meeting of the extremists led by the Melvilles and the Fife zealots with one or two of the Edinburgh Presbytery there were present over 40 ministers who entered into negotiations with the Council (3) in an attempt to arrive at a compromise which would commit neither but without effect and the trial for treason continued. They were convicted but no sentence was passed. The assise itself contained lairds who at one time had been tried friends of the Church. (4) although Melville considered that some of them were but mean men. While the ministers were still awaiting sentence the King produced his 5 Propositions which he intended should be discussed in a manner which should prevent in some measure the favourite method of Kirk propaganda. Each Synod was appointed to convene on the 25th February 1606 and thus each would have to consider the questions on their own merits without waiting for a lead from the prophets of Fife who practically in the previous years had determined the opposition policy. The articles had various forms. The plan was carried out through the medium of Patrick Galloway the moderator of the 1602 Assembly and hence the president of the Commission of the Kirk. Galloway wrote to the Moderators of Synods submitting these proposals.

On 5th February 1606 the Presbytery of Haddington considered the matter. On that day Mr. George Ramsay the moderator of the last Synod of Lothian being present produced the letter of request written to him by Mr Patrick Galloway desiring the

(1) See the Records of Haddington. 13th November 1605. C.VI. p.368

(2) P.C.R.VII. p.128 Oct. 3 1605

(3) C.VI. p.376. They would pass from their declinator if the Council would cancell their act declaring themselves judges in all causes spiritual and temporal.

(4) Hume of Northberwick Hume of Broxmouth, Carden, Keir, Dunipace, Sauchie, Mark Swinton, Craigiehall, Hume of Deans, Hume of Johs: cleuch, Pantoun, Westquarter, Caridden, Hume of Renton, Hume of Polwart. Note the large number of Humes who had never been friendly to the Kirk's pretensions owing to the persecution of the head of the House.

brethren to convene in the provincially assemblies the 25 of Februar instant in Edr. and that in respect of the Kings Majesties request direct in writt to the said Mr. Patrick The Brethren desyre the said Mr. George to deall with the said Mr Patrick for a sight of his Majesties letters for the warrant in the said matter and promisit upon his advertels: ment to keip the tyme and place foirsaid."(1) In point of fact although we can see that at first the Presbytery of Haddington was vitally interested in the fate of the warded ministers, national interests soon gave place to alarm at local scandals of the ministry especially that of Walter Hay, and with the definite condemnation of the ministers apathy once more set in to such a degree indeed that the "multitude of absentees" had frequently to be remarked upon and the fines for punishment were reenacted without effect. This must mean that ministers were afraid of being dragged unwillingly into the troubles and that those who were neutral simply did not attend meetings of Presbytery which might involve controversy.

A Royal Commissioner was present in each Synod when the King's articles came to be considered. He was feeling his way towards a voluntary acceptance of Episcopacy which he intended in any case to force upon the Scottish Church.(2) The fact that Melville's advice had such influence in the decisions of the Synod of Fife indicated that the King's attempt to control propaganda was useless. In almost every case the articles in whatever form produced were rejected absolutely by the Synods or were referred for decision to the next Assembly. That this opposition propaganda was the work of a small group was fully understood by the King, and by the stratagem of drawing them to London he hoped to control the opposition of this clique as he now controlled the earlier Lindsay-Galloway clique.(3) The condemnation of the French and Dutch Churches in London which had been the recipients of a good deal of charity from the Scottish Kirk had a wide influence in alienating the popular support from the extremists. Without the leading eight it was anticipated that any national demonstration would be prevented. The decision which the eight had to make was a momentous one and significant: only before they prepared to go they resolved to await upon

(1) Haddington. Pres. Recs. Feb. 5th 1606.

(2) As proposed in Fife the questions proposed that nothing be altered in acts of Assemblies in which the King had been present; that the jurisdiction of bishops over ministers be restored; that the commissioners of Assembly be permanently appointed and that they be a court from which there was no appeal; that the King be recognized as the Head of the Kirk and that from his authority only came the authority of Kirk Conventions. (James. Melville. p. 627) Less stringent proposals were presented to the Synod of Merse where a kind of modified Episcopacy was suggested. (C. VI. p. 392)

(3) The Melvilles Balfour (Edinburgh) Scot (Fife) Carmichael (Fife) Wallace (Tranent) Colt (Dalkeith) Watson (Edinburgh) i.e. all of the Lothian and Fife group.

the Parliament which at last was to meet in July. (1) It was known that the establishment of Episcopacy was to be attempted and the attitude of the Kirk showed an organized effort to prevent this consummation. How was it to be done. At the last Convention of Estates in the preceding June while the question of Union was still at its height the Court had been alarmed at the presence of so many "opposition" gentlemen. Did the Kirkmen hope for an alliance with the Laird class in the manner of 1560 or were they simply acting as a separate estate which might advise and direct the vote of those who were allegedly their representatives in Parliament. The Parliament was an important one both from the point of view of the Civil constitution and from the ecclesiastical standpoint. It had held a meeting in June of the previous year but had been prorogued and the June meeting had become a Convention of Estates. Prorogued again from November 26 1605 to January 14th and again to March 20 it was fixed for July 1st in Edinburgh. In preparation for this there was the usual concourse of Estates a few days before that date. Unexpectedly it was altered to Perth, according to James Melville on the ground that the influence of the ministers and their supporters in Edinburgh was feared. In the former times it had been customary for the Assembly to meet two or three days in advance of the Parliament, (as did the Burghs and apparently the barons) to prepare business which might pass into statute for presentation to the Lords Articles. An Assembly was now impossible but a good substitute was provided, which owed its existence almost certainly to the organizing power of the Fife group. Many Presbyteries sent representatives to a convention before the Parliament. In 1597 the warning had been sent out by the Commissioners of Assembly themselves for a somewhat similar convention to advise them on the question of vote in Parliament, but in this instance it must have been an entirely unofficial meeting organized by the external group. The Bishops who were members of the Commission of Assembly in fact attempted to have the convention discharged by the Council. The Council probably influenced by Seton who had no love for Bishops refused to interfere and the extraordinary convention remained insisting upon advising and controlling the commission of Assembly which still retained the sole power of communicating with Parliament and the Articles on Kirk affairs. It was known that the ancient nobility were prejudiced against the formal establishment of Episcopacy and much might be hoped for from the barons if ~~it~~ could be won back to their old allegiance. A great deal therefore depended upon the choice of the Articles, but the King introduced an innovation in their appointment. He submitted a list of persons whom he said were most familiar with his views on the Union, and the Estates

(2) accepted his nominees. As a result therefore the friends of

(1) A.P.S. IV. p. 277; Ret. of Names. p. 547

(2) Rait. p. 369; The Articles were appointed 3rd July.

the ministry were excluded. As the Kirk had expected Union and Episcopacy were made one and the same issue. What there fore was the position of the Commission of Assembly. Technic: ally they has sole right to deal with Parliament, but already several of their number were Bishops in Parliament and exercised Parliamentary vote. Six of them were indeed members of the Committee of the Articles along with two titular abbots. Now this extraordinary convention had appeared insisting upon making its opinions known by all means possible and the Commission of Assembly had to accept it as an advisory body for it claimed to be representative of the majority of Presbyteries. Whatever petitions or protestations were agreed upon could only be communicated to the Parliament through the "General Commission". The Convention seemed to be prepared for almost all emergencies. The method followed was this. The Commission of Assembly hearing that already the Articles were treating of the erection of the formal bishoprics attempted to make their opinions heard before the Committee. This was definitely refused and the claim of persons who were not members of Parliament to be present at these private deliberations was repudiated. The Commission of Assembly instructed by the Kirk Convention was prepared for this. A formal "protestation" had been drawn up some time previously by Patrick Simson; this, revised by the Convention, was entrusted to the Commission to be formally presented in writing to the Articles. But this also the Chancellor (Seton) was prepared for and refused to accept it. This document was a remarkable production. Amid a great deal of the usual Scriptural turgidity their argument was clear. Although the Kirk had accepted vote in Parliament for those appointed to prelacies, the incumbents had been made subject to a formidable list of caveats, and only on the approval of the Assembly should the voter's commission be renewed. Episcopacy was particularly guarded against by the provision that the government and discipline of the Kirk should remain unaffected by the appointment of these voters, who it had been agreed should not be called Bishops but merely commissioners of the Kirk. The whole spirit of the appointment had been violated and the commissioners of Presbyteries protested solemnly against the formal ratification of the establishment of Bishops by Parliament. Skilfully enough the old appeal to the feudal nobility was made. The appointment of the Bishops must derogate from the authority of the Lords for they were entitled to precede the laymen in the "Riding". But appeal to a nominated body such as the Articles had proved to be was of little effect. The Protestation therefore although drawn up by a member of the General Commission and signed by 42 kirkmen was not even considered by the Articles. In spite of their assured position the General Commission in the presence of the commissioners from Presbyteries were compelled to carry out their wishes. It is evident that the Commission as a body had not yet made up its mind as to the issues at stake should Episcopacy be formally established. The Melvilles had attained their old

ascendancy during the crisis but the old ruling group had been divided for ever since the appointment of the first Bishop.

Rejected by the Articles the protestation was taken to the meetings of the separate Estates as they sat discussing their own business until the report of the Lords Articles should be ready. Two delegates from the Convention were appointed to communicate the protestation to each Estate as well as to individual noblemen. Each Estate considered it favourably but their delegates on the Articles did not carry out their constituents recommendations, for they had been specially nominated by the King to execute his business. Such representations as the Estates did make to the Articles had no influence upon policy. The only method left whereby the Kirk might hope to influence the vote in Parliament was by public protest in "open" Parliament on the final riding day before the ultimate vote of the whole body was taken. (1) This final session was not to take place until 9th July. In the interval therefore the Kirk Convention continued its meetings just as if it were a formal Estate of Parliament.

The sermons during the time of Parliament before the Estates and in the pulpits of Perth reflected the politics of the day. Galloway although a courtier insisted in sermon that although the Bishops might be Lords in Parliament they would be given no preeminence in the Kirk and the caveats would prevent corruption, but the opposition was ready with proofs to show that these caveats had been habitually broken. The Commission of Assembly was compelled to appear in the Kirk Convention of representatives to hear the arguments, but in view of the immediate approach of the Assembly referred these matters to its jurisdiction. (2) It was insisted however that the Commission should at least attempt to have these caveats inserted as an integral part of any act made in favour of Bishops and even some of the Bishops i.e. those not appointed members of the Articles agreed. The Commission therefore once more petitioned the Articles but once more without effect. The only resort was the protest in public Parliament and this in itself was of doubtful legality. Nevertheless it was attempted and achieved by Andrew Melville who with a complete disregard for the order of the President of Parliament delivered his mind on the point, without however making the least impression upon the final vote. By what claim did Melville protest in the name of the Kirk. He was not a member of the official Commission, and the body from which his commission, if he had one, was drawn had no authentic position in the Kirk organization. It had been called neither by Commission nor King and was certainly not a General Assembly. If the numbers who signed the Protestation represented the total personnel the convention in spite of James Melville's claims on its behalf could not have been representative of all Presbyteries, and might just as readily (3)

(1) C.VI.p.492. Rait.p.401 see Spottiswood.III.p.176 Rait.p.336

(2) Immediately on the conclusion of the Parliament the Assembly was postponed for another year.

(3) They numbered 42.

have been a party meeting as a national ecclesiastical assembly. The fateful acts therefore restoring formally the Estate of Bishops and rescinding the act of Annexation (cap 2) the formal declaration of the Royal Prerogative (cap. 1) the erection of the 17 temporal lordships from the great benefices, all implied that the Kirk was no longer to control the vote of those who were allegedly its official representatives in Parliament. The new Bishops now restored to the Kirk revenues were the King's creatures. The position was the logical result of the act of 1597 and not all the arguments printed and preached by the minority could avail against the Statute which made no attempt to include the caveats of 1600. The King's interest was in the restoration of what was for him the most important Estate both from the point of view of taxation and for purposes of control of Parliament. (cf Rait. p. 369) What was the financial position of the ministers? By the act establishing bishops the revenues were restored and payment of their thirds direct to the Lords Modified discharged. Nevertheless they were responsible for the provision of the ministry within their bounds of the benefices from which they drew their rents, from the readiest thirds in the proportion defined in the ordinary assignments. In point of fact therefore what would happen was that the old stipends of assignation would continue although the ministers might hope for more lenient treatment and readier payment from those who had once been their fellow ministers. (1) The stipends of the ministers were studiously considered in the acts erecting the temporal lordships and in several cases the exact amount due was embodied in the actual erecting act. The King received his annual duty from the Lords of Erection and the Kirk also received her quota. It was still in principle the same as the agreement of the "Thirds" except that the Temporal Lord had taken the place of the "auld possessor".

The Melvinians knew that the old Nobility viewed with distrust the appointment of Bishops whose place in Parliament was by the constitution more honourable than that of the Earls but the temporal lordships were a bribe which carried the bargain through. The arguments therefore skilfully advanced that the appointment of Bishops was contrary to the honour of the Estates of Parliament and especially to the Nobility did not at this time carry the weight that had been hoped (2) The new men it was true received a large part of the spoils but the cupidity of the noblemen prevented any union with a Kirk policy which was sure to alienate the King in whose hand the gift remained. As ever the Kirk appeal was to hereditary feudal right, and to the ancient standing of the other Estates of Parliament. Yet the barons had been members of Parliament for barely twenty years

(1) See, A.P.S. IV. p. 277 et seq. The taxation for relief of the King's debts was the price paid by the bishops for their restoration. Rait. p. 493; Connell on Tithes. p. 109, 110

(2) See Calderwood. VI. p. 530 The 11 Bishops had given offence already by insisting at the final riding on 9th July upon their precedence in procession. *ibid.* p. 494 Thus the Bishops rode as an Estate before their formal position had been discussed and at the 2nd riding quarreled with the nobles before apparently the final full vote had been taken.

These arguments so carefully prepared both by the Convention of the Kirk led by Melville, and by the imprisoned ministers in Blackness together with the various supplications may never have reached Parliament at all for it was only through the Commission of Assembly that such representations could be made. They may have been accepted and laid upon the table for the Articles discussion but they obviously had no effect upon the course of events. They may have been produced once more in the separate meetings of Estates which were inclined to favour the ministers cause but were unable to exercise control over their own representatives on the Articles. Andrew Melville probably recapitulated the arguments in his defiant speech in Parliament, but their elaborate construction was of little value unless for purposes of propaganda. It is probable that written or printed copies of the salient points were taken home by those ministers who were present.

- Once more the postponement of the Assembly fixed for July until the following May awakened the old alarm and the old defiance. But the removal of the 8 ministers to London prevented active propaganda. They went as individuals not as representatives of their Presbyteries, but whether the warlike Melvilles would have preferred that the Kirk should resolutely forbid them to go is not clear. They undoubtedly expected greater unrest at their departure than actually took place, but in point of fact in the beginning the conference was little different from many in which they had taken part in the past. The King, some of the Scottish Privy Council and 7 commissioners of Assembly (1) simply discussed the points at issue in the matter of the 1605 Assembly in a judicial manner with the 8 leaders of the opposition. The point upon which they were least assured was the attitude of those Presbyteries who although they did receive the Commissioners letter of prorogation defiantly sent delegates to Aberdeen. For those Presbyteries who had not been advertised directly there was excuse but for bodies such as Fife and Haddington there was none. By what right did they judge that there were weightier reasons for holding the Assembly than against it. In point of fact the Presbytery of Edinburgh when it virtually carried out the function of a Commission of Assembly had never met with such opposition even although it had none of the formal powers of the present General Commissioners.

- Compromise was in the air but a calm and reasoned policy was hardly possible while Andrew Melville was present. He had at last received an opportunity for expressing his views which his enforced absence from Assemblies since the (2) University Visitation had for long prevented. The joint attitude of the 8 ministers inferred the absolute equality of Assembly in ecclesiastical affairs with the authority of Parliament in Civil affairs. Melville even produced the Parliamentary system

(1) C.VI.p.568

(2) James Melville.p.659

The Presbyteries of St.Andrews and Edinburgh are now blank for a long period. Haddington contains little reference to these agitations, save to make arrangements for the supply of Wallace's place at Tranent during his absence in London (Recs.Aug.6 1606)

of "continuation" as a ground for the validity of the the Aberdeen Assembly in spite of the smallness of the membership. "Continuation requireth not full conventions" But it was useless now to insist upon the equal authority of Assembly. The rival of Parliament had receded from that position when it accepted vote in Parliament as one of the Estates. The old Kirk policy of attempting to create a party among the Scottish Nobility in London was not successful

(1) and all parties repudiated the insolence of the elder Melville

Certainly his policy was not calculated to induce the King to leniency to the imprisoned 14 ministers, and the informal complaints laid before the King in November showed that they realized the dangers which their absence from Scotland at this time might hasten. The King knew as well as they that with the leaders of the opposition detained in England the remnants of the party would have no organized propaganda to counteract his schemes which were already being formulated for the Linlithgow Convention (2) James had his own methods of propaganda and his proclamations against the Papists were intended to indicate that whatever might be the petty quarrels over the details of Kirk Government, the Government was united against the enemy of Protestantism (3) Leadership in Kirk affairs was now as much the King's prerogative as it had once been the prerogative of the Fife and Lothian Group. The Commission of Assembly was a cipher. The full body of 27 seldom if ever met. The real power such as it was apart from the King, lay with the Bishop members now 11 in number. Men like Simson of Stirling who supported the Opposition simply did not attend the meetings of Commission, for it was the King and the Bishops who gave notice of meetings. The tendency towards oligarchy implicit in the Assembly had been used with fatal effect by the King. The cabinet of the Kirk had become the ecclesiastical part of the King's Privy Council. By controlling the Council - one of the noticeable features of James rule after 1603 - the official leaders of the Kirk were also controlled. The opposition itself depended for its organization upon groups and the leaders of these groups had been caught in the trap prepared for them. (4)

(1) C.VI.p.589; Spottiswood.III.p.183 C.VI.p.597

(2) C.VI.p.593 The commission of Assembly and particularly the Bishops were accused of duplicity in the sending out of the letters regarding the summoning and then the prorogation of the 1605 Assembly. Some Presbyteries certainly may not have known of the postponement but the majority of the members knew they were defying authority.

(3) P.C.R.VII.p.257; 259 30th September 1606

(4) They were warded on 30th November thus preventing any desperate attempt to interfere in the Linlithgow conference

The meeting arranged at Linlithgow was allegedly purely a conference on the lines of that of October 1604 at Perth for the purpose of clearing up the difficulties. But while the precedents of 1596-7 and 1597-98 were followed in the theory of consultation between lay convention and Kirk Convention there was no suggestion that the Kirk meeting was a General Assembly any more than that the convention of nobility was a representative Convention of Estates. There were plenty of precedents for the Royal nomination of those whose advice he desired. The Assembly itself had declared that when the King summoned a minister for advice he must go. The Conference of November 1599 had been composed of leaders of the dissatisfied parties who had apparently been nominated by the King. Suspicions were still farther allayed by the fact that the Assembly proclaimed for May 1607 had not been cancelled (1) Some Presbyteries according to Calderwood were not warned at all while others of the moderate opinion had 5 or 6 representatives present. Haddington Records give a glimpse of how the proposal was received. On 3rd December 1606 a letter was received from the King "touching the sending of Mr James Carmichael David Ogill and James Reid to the meeting and conventioun of the nobilitie at Linlithquho the 10 of this instant". There was evidently grave doubt in the Presbytery. Ogill and Reid were certainly not men of great character but Carmichael had proved his worth in many commissions e.g. 1588 and 1593. Another meeting was appointed on 8th December to resolve upon an answer to the Royal letter. The result was a limited commission. "We the Presbyterie of Hadingtoun understanding that our brethren (named) are to repair at his hienes command upon the 10th of this instant to ane meting of the nobilitie at Linlithquho and considering quod omnes tangit debet ab omnibus curari et quod culpa non careat qui rei se miscet ad se non pertinenti Be thir presentis dischargis the said brethren to vote conclude or determine of onie thing the decisioun quherof pertenis to ane Generall Assemblie and commandis thame in our name wt all humilitie to requeist the nobilitie thair convenit to be suteris to his Majestie that ane frie Generall Assemblie may be con: :vocat as the only reneid of all these evils mentioned in his hienes letter" The Royal letter as produced in the Presbytery of Dunfermline is preserved by Calderwood. The composition of the meeting was definitely stated to be a conference of council nobility and ministry for the purpose of inity against Papists non communicants etc. (For consider: :ation of the personnel see Chapter I) Besides the 130 ministers delegates from Presbyteries there were others with no commission. The King had complained in his "frivolous interr: :ogatories" about the presence of the non commissioned but in this instance their presence was a mistake for it gave the meeting the appearance of a General Assembly. In his comput: :ation Calderwood could not have included the Commission

(1) P.C.R.VII.p.218

of Assembly who were certain to be present along with the Bishops. The King having realized the success of his plan of controlling the appointment of the Articles in Parliament continued the process in the Kirk meeting. The moderator was chosen from a list sent down by the King and although he would seem to have nominated the Privy Conference there could be little doubt that those whom he chose would be acceptable to His Majesty. Probably they consisted of the majority of the "General Commission". Certainly the Parliamentary model was followed in the gradual approximation of the Conference with the Articles in constitution. As the Articles had come to be almost synonymous with the Privy Council it was the King's object to make the Privy Conference synonymous with the ruling Commission of the Kirk. The conference considered all the real business and until its decisions were known the Assembly (or rather convention) did little business of value.

The harnessing of the Assembly to Court Politics was skilfully accomplished by using the zeal against Papists to insinuate the Episcopal hierarchy. Against Papists the meeting founds courage to attack the negligence of the Bishops and Commissioners (BLU.K.p.1024) and for information of the Privy Council an agent was appointed in each Presbytery to report the names and activities of all suspects. This agent it was agreed should ex officio be Constant Moderator of the Presbytery with a pension of £100 Scots paid out of the King's patrimony by the Treasurer. If there was a Bishop in the Presbytery he was to do the work both of agent and moderator without additional stipend. Thus Bishops and Constant Moderators were inseparably associated and the acts as finally (and corruptly) produced extended the principle to include Bishops as constant moderators of Synods. It was Patrick Galloway with something of his Gomer zeal who took it upon him in the absence of the Melville group to point out the dangers arising from the system to the constitution of the Kirk (See Chapter 1)

Thus on the old score of Papists the King had used the Protestant zeal for his own purposes. The second burning question was the provision of the ministry still in spite of all efforts at Constant Platts provided from the Thirds. The late Acts of Parliament as we have seen had altered the position with regard to Bishops and Abbey Kirks of the erections. The whole problem of rearrangement was given over to the Lords Modifiers and the new permanent staff of the Kirk i.e. Bishops Moderators and Commission of Assembly were the agents for obtaining decrees from the courts compelling noblemen to pay adequate provision. The whole aim was to make Bishops and Moderators indispensable. With such a permanent body in existence the formal Commission of Assembly would have a very restricted power but it had served the King's purpose well enough and a large number of its members were now among the Bishops themselves. The old idea of the Constant Platt in its connection

with Parliamentary representation persisted. The scheme of 1596 had suggested Parliamentary representation for each Presbytery. The problem was now to be solved by the attendance of the constant moderators as members of Parliament for the Kirk, subject to the censure of the Synods, just as Bishops should be subject to the censure of the Assembly. The scheme of 1596 had met with the approval even of persons like James Melville and was a plausible one. One of the suggested plans had been that the voter in Parliament should be the nominee of the Presbytery. The only difference was that his position was to be permanent and on this point of duration the Kirk had been of divided opinion. If the moderator did become the voter in Parliament it was certainly a solution of the difficulty. The principle would have been better had the elective Moderator been granted the power but James was not in favour of the representative principle being applied to the Ecclesiastical Estate as he had now reorganized it. (B.U.K.p. 1029) In point of fact it was doubtful whether the system was meant to apply to all moderators of Presbyteries or whether only those Bishops who were moderators of their own Presbyteries were intended. The elaborate "cautions" set upon the Constant Moderators to restrict their power as far as possible within the limits of the free constitution of the Kirk were admirable but if as little regarded as the notorious "caveats" of 1600 would be worse than useless and instead of being a free and elective institution the Kirk would become a narrow ring of permanent officials over whom the main body would have little control. The enormous power of the Privy Conference which suggested all the business including the list of these Agent Moderators indicated only too clearly that the Constitution of the Kirk was already too closely approximating to the constitution and methods of deliberation of the Parliament. Nevertheless some element of choice was left to the individual Presbyteries if an obviously more suitable person was to be found than the nominee of the Convention. Thus a nominated conference called by the King without in the majority of cases authority to commit their Presbyteries to anything, composed of delegates with only limited commissions to deliberate and advise and not to vote assumed the full powers of a General Assembly and accepted a policy which altered the constitution of the Kirk.

(1) See Calderwood. VI. p. 613 The terms are ambiguous.

(2) See the formal Act. C. VI. p. 613 et seq. The caveats applied to Bishops were apparently extended to the Moderators (see Caution 2)

(3) The Privy Conference while in session did not however preclude the meeting of the Assembly and although the main business seems to have been passed by the main body in the last sessions on the model of the Parliament, the Privy Conference seems to have reported daily to the Sessions of the Assembly. It was not till 1618 that the parallel was absolutely complete.

The methods used to enforce the system were equally unscrupulous. Royal representatives attended all Presbyteries in which opposition was probable and threats of complete discharge of Presbyteries were used in addition to that of horning. Only Edinburgh was vouchsafed information as to the actual tenor of the act. The capital Presbytery was still regarded as the model for the others although the opposition of the old zealots of its number was but a shadow of its former independence. It accepted the moderator until the next Assembly only which had been altered at the Linlithgow meeting to July, and in July his office should expire. In some Presbyteries the royal representatives suggested that "Constant Moderators" should be only of the same duration as the office of Agent against Papists which was obviously a temporary measure. But persuasion was not effective. The majority of the Presbyteries refused or delayed acceptance and the result was the act of Council 17th January 1607 which put the vague threat of horning to actual practice (P.C.R.VII.p.297;312 etc). Union and Episcopacy were inseparable in the King's view; even the intrepid 8 in London were sounded on the question.

At almost all meetings of Presbyteries and Synods Royal Commissioners were present to overawe the opposition. e.g. Lothian Synod, Presbyteries of Perth Dunfermline etc. In Lothian three Presbyteries accepted with reluctance in a modified these innovations, but Peebles Haddington and Dunbar had refused until the formal act was produced. In Haddington a careful silence had been observed in the recorded minutes as to these proceedings although the three delegates had certainly attended. On the first meeting day after Synod however the compulsory measures were begun. On 11th March "compeirit the right honorabill lairdis of Wauchtone and Clerkington commissioneris from the secret councell desyring the presbyterie to accept Mr. James Carmichael as there constant moderator "for ane ceartane tyme". Thus the local magnates were used to compel their old allies to submission. Permission to "sicht" the fateful act being refused the Presbytery "regratit such forme of dealing zit for testimonie of there obedience in respect the presbyterie of Edinburgh had seine the foirsaid act and they could not hawe the sicht of it, agreit all in ane voce to admit the foirsaid Mr. James Carmichael according as the Presbytrie of Edr. had admitted Mr. Jhone Hall" subject to the same conditions (1) and almost at once the work against Papists was begun with the intention apparently of making the term of office of the Agent Moderator as brief as possible (2)

Royal representatives were given official warrant to watch over the activities of Synods (P.C.R.VII.p.343 30th March just as in 1602 the "unsuspect elders" had restrained the Presbytery of St. Andrews. In the Synods the struggle was to be

(1) Pres. Recs. Hadd. MS. 11th March 1607

(2) ibid. 25th March. Every minister was exhorted to submit list of Papists and excommunicates.

most acute for the "forged clause" affected the freedom of their choice of moderator, but lack of organization prevented a uniform resistance. It was not to be admitted that a nominated convention of the Kirk was equivalent in authority to a free General Assembly, whatever the Practice with regard to Parliament and its relation to the Convention of Estates might be. Perth made a gallant resistance in which violence was used by both sides and insisted upon electing its own moderator without being bound by the list of the 4 constant moderators of Presbyteries, for the 14 representatives who had been present in Linlithgow solemnly protested that no act to their knowledge had been passed as to the election of Synod Moderators. Although locked out of the Church by order of the Royal Commissioners the Synod continued its defiance and carried it farther instructing the Presbyteries to elect their moderators as they pleased without reference to the Linlithgow regulation. The support of the commons was with them. Those of the General Commission who were present could do nothing. There was a growing fear that since the constitution of Presbyteries and Synods was thus interfered with the General Assembly would not long remain inviolate. A nominated Assembly was to be prevented at all costs, and the Synod by its constituent Presbyteries appointed three delegates from each to attend the Assembly appointed at Linlithgow to be held in July in Holyrood. No question therefore of laymen as an essential part of the Assembly was considered. The Kirk did not hold democratic views as to the support of the commons and the lairds who had been their chief supporters of Church independence in former days were afraid to risk royal displeasure and were in fact being actively instrumental in the overthrow of the Constitution. Such opposition although a valuable expression of independence was easily crushed by the authority of the Council in spite of appeal. The presence of Royal Commissioners effectively prevented the organization of a national movement especially since the leaders were detained in England. (1)

If Perth which had never played such a prominent part before could go to these extremes what was to be feared from the Fife brethren. The lairds of Fife were, many of them still loyal to Kirk independence. Under pretence of danger from the plague the Synod of Fife was discharged (P.C.R.VII.p.347) from meeting at the end of April and a new date fixed for (2) June. In spite of this they followed the precedents of 1604 and 1605 and met some of them in ignorance of the discharge. The famous meeting on the sands of Dysart was divided in opinion for the moderate party threatened to withdraw altogether if rebellious measures were taken. Although in a slight majority the extremists compromised and submitted to the date in June appointed by the Council not without threats that if the Council continued its policy of prorogation the Kirk would be driven to rebellion.

(1) Perth Synod was discharged from meeting until it satisfied the King. R.P.C.VII.p.362 30th April

(2) P.C.R.VII.p.357 23rd April

James policy with regard to prorogations had played a large part in his control of Parliament. His power of prorogating Assemblies prevented the Kirk from obtaining a national expression of opinion on these important innovations; While the continued absence of the "Rival of Parliament" for 5 years had lost for it that prestige which popular opinion had given it. The people of Scotland were apathetic on these points of government and theories of discipline. While the Assembly had a strong national policy and exercised a control in civil affairs it had had almost universal support. But the troubles of the ministers were not of such vital consequence as to cause a national revolt. Moderate Episcopacy was nothing new and the ultra Presbyterianism of the Melvilles was a comparatively recent growth. No question of Papistry was involved which alone apparently could awaken the Protestant fervour, and the struggle therefore remained for the ministry alone and did not develop into a national movement.

Another prorogation of the Assembly was only to be expected (from July at Holyrood to 24th November at Dundee) but the proclamation provided for a conference of Synod Commissioners to prepare business and prevent violent scenes. (1) All Synods were to meet upon the same day 4th August there to appoint two delegates to confer on 27th August with the Commission of Assembly and the Privy Council. But the Synod of Fife was determined upon recognition of its liberties more particularly since it was in communication with James Melville. Its ordinary meeting at the end of June would not accept the forged act and when the argument of horning was used by the Royal representatives they deferred farther consideration until September. This was obviously a compromise for the extremists such as Dykes were ready to counter the "civil horning" with the excommunication of the unpopular Archbishop Gladstones. (2) The members of the Commission of Assembly who belonged to the Synod of Fife were present but were apparently little regarded. All animosity was directed against those of the Commission who had become Bishops. Although the Presbyteries had accepted their Constant Moderators in general the Synods remained firm and of them all only Angus had accepted its provincial moderator. But Parliament was approaching after several prorogations. (3) It actually met for business and the appointment of the Articles on August 3rd. It was felt that the Kirk would attempt to

(1) Royal Letter. P.C.R.VII. p. 370 24th May. 1607

(2) Dykes said "we should have assayed whose sword was sharpest and what we could have done by excommunication against our Bishop" What would have happened however had no civil penalties followed upon the sentence. Could Gladstones not have asserted his claim to inspiration with equal justice as he did a little later (C.VI. p. 670) Patrick Adamson had been overcome by the support of the laymen but these laymen were now apathetic to the cause or had definitely ranged themselves on the side of the King. Dykes scheme would only have revealed the Kirk's weakness.

(3) March 18, 9th June, 29th July, 3rd August. 1607

influence if not the local Parliamentary elections at least the final vote of the Estates by petition after the manner of 1606. If the Synods were permitted to meet on 4th August the business of Parliament would not be finished and they might make an effort to appeal in open Parliament during the final session. Accordingly on 16th July the Privy Council prorogued the meetings of Synods from 4th to 16th August and the conference of Synod delegates from 27th August to 1st September. By these dates all Parliamentary business would be over and with a nominated Committee of the Articles little lay opposition was to be dreaded. The uncertainty as to the dates of Parliament left the Council little time for advertisement and Haddington Records show that the Kirk realized the significance of the move. On 15th July George Grier one of the ministers of Haddington and the Clerk of the Presbytery, asked the advice of the Presbytery as to a letter he had received from the Privy Council "for keeping of the provincial Assemblies the fourth of August" Letters were appointed to be sent to all the other Presbyteries of the Province advertising them. But by the next meeting the alteration of the date was known for a letter was received from the Presbytery of Edinburgh suggesting a fast before the meeting of the Synods on 16th August. Haddington however was of a hardier spirit. It was reasoned whether the first date of meeting appointed by proclamation and for purposes of "conference" on this head Grier was instructed to write to the other Presbyteries of the Province asking them to send delegates to Edinburgh on Tuesday the 28th July to consider the point. But there was more than mere "conference" in the air. Parliament might be meeting on any day (cf prorogued from 29th July) and these delegates of Lothian probably intended to keep watch over its activities. James Carmichael (the unwilling Constant Moderator) and Archibald Oswald represented Haddington. Whether they met on the 28th or not is not clear. Probably if they did their meeting was only formal for certainly the dates of Parliament had a great influence in determining the meetings of this conference. On 29th July the Presbytery "continued" the commissions given to Carmichael Ogill and Andrew Mc Ghie to meet on Monday 3rd August in the New Kirk of Edinburgh "to give their judgment with the other commissioners of the presbyteries of this Synod in such matters as shall be handled" The formal charge to the Synods (23rd July) to accept their Moderators was probably one of the grounds of discussion but the whole question of defiance of the Council must have come up. The Lords Articles were being appointed on the very day on which these Lothian commissioners met. It seems inconceivable that they did not attempt to influence the meetings of the separate Estates since it was useless to attempt anything in face of the paramount Royal influence in the choice of the Articles. Yet officially all that these delegates did was to

(1) There is confusion but probably the letter received by Grier intimated the alteration from 4th August.

The references are taken from the MS. Recs. of Haddington Pres.

acquiesce in the postponement of the Synod to 18th August. All apparently that these agitations had meant was the establishment of the right of the Synod to settle its own dates of meeting although it was careful to make these coincide with the Royal wishes. It is probable that some scheme to influence Parliament was attempted but was abortive when the full extent of Royal influence in the Articles was known. The ancient nobility were absent from Parliament either in London with the King or from discontent at the power of the new men Dunbar Binning and the rest. The barons on the Articles were many of them the very persons most used in the campaign against the Kirk and the Burghs were indifferent. The Kirk representation on the Articles consisted of 6 Bishops and

- (1) 3 Titular Abbots and the full honours of the Ecclesiastical Estate were granted them for the first time in the Riding. No record survives of any "dealing" with Parliament by the Commission of Assembly although that was the chief part of its function. The central group which had become Bishops required little advice since their policy was almost wholly determined by the King. If the representatives of the Presbyteries tried to secure the support of the Commission there is no evidence of such influence in policy. Although the treaty of
- (2) Union was approved so far as to secure the abolition of all acts against Englishmen, it contained nothing which might be construed into an attack upon the Kirk, and in fact zeal against
- (3) Papists was a prominent part of the programme. Nevertheless the further encroachments of Episcopacy were evidenced by the act erecting the chapter of St. Andrews, without any effort
- (4) being made at protestation. No regard was had to caveats in spite of the protestations of the Bishops at Linlithgow and the tenets advanced by Gladstones showed how far he had travelled since the struggles of 1596 in which he had championed
- (5) constitutional Kirk Liberty.

The week after the dissolution of Parliament (11th August) the Synods held their meetings 18th August. Determined efforts were made by Royal Commissioners to have the Bishops recognized as the Constant Moderators of Synods but Lothian referred the question to a General Assembly and only reluctantly appointed its two commissioners to the Conference. Fife was openly defiant and in spite of the threats of the Commissioners dissolved without settlement and similar scenes all over the country rendered the Holyrood Conference on 1st September a

- (6) dead letter. Even greater persecution took place in the October meetings of Synods and the position was controlled by the Council by means of threats both against recalcitrant Synods and such moderators as were elected by constitutional methods. (7) Formal discharges of rebellious Synods and the

(1) A.P.S. IV. p. 365 (2) ibid. p. 366 cap. 1 (3) ibid. p. 371 cap. 2
 (4) ibid. (5) see his sermon before Parliament. C. VI. 669
 He acknowledged the supremacy of the King in all ecclesiastical affairs. (6) C. VI. p. 677 SPottiswood III. p. 148 et seq
 (7) P.C.R. VIII. p. 12

horning and imprisonment of individual ministers showed how sadly the Kirk power of adequate resistance had fallen into abeyance. It could only be explained by the withdrawal of baronial support from the Kirk claims. Almost all of the heroes of the 1596 resistance were now stigmatized by the zealots as ambitious time servers and the Commission as a body with the exception of one or two individual members was regarded as corrupt and no longer representative in any way of the general body of Kirk opinion. Their meeting on 7th October for the trial of these complaints against ministers was patently biased and any hope of calling them to account was deferred by the prorogation of Assembly from November (1) until April 1608. James Melville directed the opposition from his banishment in Newcastle and refused to be dissuaded by offers of a Bishopric. Before long another prorogation postponed the Assembly till July 1608. By that time it was hoped that poverty would have driven the ministry to submit (2)

The Commission of Assembly was in an equivocal position. If as the King claimed the Linlithgow Convention was a legitimate Assembly their commission had expired more than a year ago, yet they were continuing to try ministers and conduct affairs in the old manner. The Bishops of their number were secure for they owed their position to the King but a free Assembly might challenge the right of the King to nominate without regard for the 1600 caveats. Every effort therefore was made to ensure that if any Assembly should meet the majority of its members should support the Commission and the Royal Policy. For this purpose an old commission of

- (3) visitation of 1602 was produced so that at the time of the elections each Presbytery might be so instructed and overawed that only the "moderates" would be appointed. The lay commissioners of the Platt retired in favour of the Bishops so that the stipends of the recalcitrant were at their mercy. With these arguments the "Visitors" expected little resistance. Calderwood stresses the evils of the visitation because he himself was vitally concerned in that of Jedburgh, but the Bishops were really struggling to give themselves some constitutional position before facing the criticism of an Assembly. It is this which explains their frequent meetings in the beginning of 1608 as Commissioners of Assembly. (4)

Visitation and financial pressure were two of the means used to control any undue opposition in the coming Assembly. The third method of Conference was the suggestion of the the Opposition itself but was eagerly seized upon by the Bishops and Commissioners as a powerful weapon for anticipating and nullifying criticism in the Assembly itself

- (1) P.C.R.VII.p.451 (2) P.C.R.VIII.p.25 The methods of 1584 were followed in almost every detail. Many of the Bishops themselves had suffered under the system.
(3) B.U.K.p.986. James Melville.p.731 see Matheson.p.309

(4) C.VI.p.702

The challenge came in the first instance from the Fife group of which the intrepid Dykes (who had attacked the Law of Free Monarchies) was a prominent member. James Melville was distrustful of such disputations lest at any time the constitution of the Kirk should be regarded as other than unassailably right, but he probably doubted the powers of argument of these lesser rhetoricians when he and the other leaders were not taking part in the debate. By special permission of the King, Scot, Carmichael and William Watson were present but Melville himself was not allowed to attend. The challenge was addressed by the ministers of the West of Fife to their "Brether commissioners voitors in Parliament" and the subject of debate was the defence of the Presbyterian polity by reasoned written argument on the points of controversy. The joint conclusions should after debate be referred to Presbyteries Synods and subsequently to the General Assembly there to become law. A refusal on the part of the Bishops to defend Episcopacy would therefore be an admission that the new methods were unjustifiable. The Conference at Falkland therefore was a joint party meeting. Of the constitution of the Episcopal group there was little doubt, for it was composed of Bishops and Commissioners of Assembly only. Whether they would have welcomed the advice of the moderates and the supporters of Episcopacy in the localities is not known. The Presbyterians are noted as containing "ministers from all quarters" but neither numbers nor the method of the selection of these commissioners are indicated. A strong Episcopalian party must have existed somewhere and there is just a suggestion that as usual the zealots regarded Fife and Lothian as the only districts whose opinion was of value. Certainly Haddington contains no reference to their deliberations. The Bishop-Commissioners met in the Chapel Royal, the ultra Presbyterians under Patrick Simson (who had revolted from the methods of the Commission of which he had been originally a member) in the parish Church. Thus the Bi-cameral system was again attempted but that there was no real equality was soon apparent. The Bishops were really members of the Council and soon the Presbyterians found themselves giving in Articles to Bishops and Commission very much in the way in which they had propounded then in the old days to the Council. These demands (1) simply warned the Bishops in advance of what the line of policy in the Assembly would be, but it was agreed that at the Assembly in July full report should be given by the Commission and a united programme prepared against Papists. No violent quarrels should lower the prestige of Assembly as an ecclesiastical convention and all the disputed points should be treated in

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- (1) For operation of the caveats, permanence of Presbyterian Discipline, restoration of the integrity of Synods and Presbyteries and the restoration of the banished ministers Patrick Simson Moderator of the Presbyterian meeting acted the part of Speaker. The situation was reminiscent of English Parliamentary methods.

the Privy Conference appointed by the General Assembly. The brethren were only induced to consent to these proposals by their appreciation of the necessity for union against Papists but nothing save the assurance of the Assembly had been gained and by these concessions they had mortgaged their claim to open debate in the Assembly itself. Nevertheless something was to be hoped from the eloquence of the few leaders who were to be permitted to return to attend the Assembly. Meanwhile until the Assembly discussion of the controversies was forbidden though in point of fact neither party kept the bargain. The Bishops and the English Divines preached propagandist sermons and the poorer ministers were thought to be won by bribery. The "godly and wise" (1) therefore in defence prepared their campaign. As usual it originated in Fife and took the form of a model commission and complete list of instructions for delegates to the Assembly and these were communicated to all the Presbyteries. (2) One feature of constitutional importance was the dread of the lay vote. Laymen had for many years played no part in the Kirk policy and the late assemblies had consisted entirely of ministers. There were rumours current of an attempt to "swamp" the ministers vote by introducing great numbers of uncommissioned laymen to vote in Assembly, and the Fife ministers therefore urged that each Presbytery should insist that no noblemen barons or burgesses be admitted to vote without commission from Presbytery and "so manie onlie as the order and custome of our Kirk alloweth." During its most powerful days the order and custom of the Kirk had welcomed enormous numbers of laymen's votes but now that the tide had turned and the King controlled the lay vote they were anxious for rigid constitutionalism according to the act of 1598 even although the Assembly which passed it was still regarded by the purists as corrupt. (of the vote in Parliament). There is evidence that these instructions and commissions were in circulation before even the conference of Falkland. Their fears were only partially realized in the actual Assembly when 40 noblemen represented the King although by some unregistered statute of the Kirk he was only given 3 votes in the house. Yet the Kirk was afraid to go so far as to alienate the nobles behind redemption. A war in defence of religion was never far from the thought of the ultra zealous

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(1) Row. p. 75 James Melville. p. 749

(2) They were to vote on the questions of Papists, appeals, restoration of liberties of Assemblies Synods and Presbyteries etc with an inhibition to consent to any ratification of any innovation since 1602 under penalty of excommunication especially in the establishment of constant moderators. Their instructions insisted that each Synod and Presbytery was free to appoint its own moderator; that no commissioner appointed by the Assembly be also a moderator of Pres. Synod and Assembly. etc. C. VI. p. 738

(3) See Chapter. I. The Assembly actually met in Linlithgow and not in Dundee.

The Privy Conference as might have been expected consisted of the 4 Royal Commissioners, 7 Lords and 9 Bishops and 15 ministers of whom 7 were members of the Commission of Assembly. The control of this Privy Conference must explain the ineffectiveness of the Opposition measures prepared by the Fife group. Individually the Presbyteries had little to complain of in the conduct of their Bishops. (1) and without the vehemence of the Melvilles criticism tended to lapse particularly when the Conference contained such a large proportion of those to be criticised.

Common cause however was made against Papists and each Synod prepared its complaints for the consideration of the Privy Conference before the matter was discussed in open Assembly (B.U.K.p. 1049) The excommunication of the defiant Huntly and Dunbar, s promise of execution of the civil penalties showed that the King's favour did not protect the recusant. The careful examination of the causes of the increase of Papistry was reminiscent of the great days of 1593 and the old complaints of the liberty of the press and lack of censorship of incoming literature, of Papist influence in the education of youths abroad. The dissensions of the ministry prevented the careful scrutiny that was necessary but as usual the Kirk placed all the blame for "corruption" upon the State. Processes of excommunication were often stopped by warrant from the Privy Council and execution of civil penalties was not always certain while very frequently the excommunicate was left with a large number of his civil rights and only the fine collected. e.g. he was allowed to plead in law suits.

The remedies for these abuses were thorough going (2) and the spirit informing them remained the same. Yet the Protestant mob which had made their claims effective in 1593-6 was not the same. The barons were no longer of the same zeal and while the burghs continued to send representatives to the Assembly when it suited their purpose they were not prepared to risk loss of trade for the sake of Kirk pretensions.

(1) e.g. Glasgow Presbytery and its attitude to Spottiswoode August 21 1605 He asked permission to go to the King on the affairs of the Kirk and had doubt as to receiving the the Bishopric to which the Synod had admitted him. On June 24 1607 he was accused of non residence negligence and for non subscription of the caveats but the Presbytery was eventually satisfied (Maitland Miscellany Vol I.)

(2) A commission under the presidency of the Bishop to be set up in every Synod to apprehend Papists. They were to noblemen nominated by the commissioners of Assembly; That no suspects be members of Council Session Town Councils etc; due execution without exception of Acts against Papists. A Papists although recants is not to be permitted to hold office for at least 5 years; the acts of 1601 to be reinforced that heirs are not to be admitted after return from abroad without testimonial of the Bishop and Moderator; Children of Papists to be educated by Protestants; booksellers must submit their stock for examination by the Presbytery before selling; the age old complaints as to pilgrimages reappeared

Yet the old theory of control over the choice of Councillors remains and there is additional insistence that whenever an official is excommunicated he must automatically lose his position. The presence of the Bishops on the Council ought under normal circumstances have given the Kirk a wide field for surveillance had they not been so entirely under Royal control. In the matter of Papists however they felt they could exercise this control without offending the King's sense of his prerogative. Both laymen and kirkmen were unanimous in this programme against the common enemy and the delegation to present the results of these deliberations to the King was accordingly nominated on a basis of Estates. (1) Yet the Kirk was distrustful of commissions which seldom procured any effective measures and accordingly a kind of convention of the Kirk was nominated to meet in Edinburgh upon 15th or 16th November to receive the report which they should bring from the King. The composition of this Convention was doubtful. According to one account the convention to receive the report was composed of two delegates from each Synod (ministers) but the actual record provides a list of 5 Earls 11 Lords 8 Lairds the burgess representatives of Edinburgh Glasgow St. Andrews and Perth, 20 ministers and the Commissioners of the General Assembly to be appointed for the General Affairs of the Kirk.

Why when the time came for the trial and censure of the late Commissioners of Assembly, no complaints were formulated and the production of the minutes of their proceedings was not insisted upon can only be explained by the implied threats in the presence of the non commissioned lay element, or by the fact that a large number of the individual commissioners of Presbyteries were unwilling to proceed to extremes and that the King was perhaps right when he held that the opposition in Synods and Presbyteries was the work of a group of 5 or 6 extremists while the general body was comparatively neutral. The new commission was composed of 30 persons consisting of the 11 Bishops 13 members of the late Commission and 6 others who represented in a small degree the remnants of the opposition. In point of fact as Cowper the temporary moderator pointed out there were no others in the Kirk more suitable for the duty on account of their experience, their special financial provision and knowledge of affairs. The Assembly insisted that this did not imply a permanent commission, for it was virtually a fresh election and although once more the quorum was a small one i.e. 11 it was suggested that whenever possible the whole of the Commission should assemble in order to prevent the power becoming the prerogative of a small group. But their powers were as untrammelled as ever. They had full power to deal with the King in the matter of Papists, in the trial of ministers, in the

(1) Dunbar Wigton; Spottiswoode William Cowper, Livingston of Kilsyth, Hart of Preston, Nisbet burgess of Edinburgh

planatation of Burghal Kirks, in the presentation of petitions to King Council Convention and Parliament. The Conference at Falkland might never have taken place. By agreement the really vital questions had been referred not to the General Assembly but to a private conference. This was not apparently as was perhaps at first intended the ordinary Privy Conference of the Assembly but a special committee which was to meet with the representatives of the King and Council when summoned by his Majesty. In point of fact instead of being an unbiased conference as the Falkland meeting had expected it was nothing more or less than a sub committee of the Commission of Assembly reinforced by a small minority of the extremist faction (1) whose vote would not influence any ultimate decision. Thus the burning question of the constant moderators was shelved until the next Assembly which although provisionally fixed for a date in May 1609 was left once more at the King's mercy.

- The whole policy therefore was a skilful deception; zeal against Papists was used to conceal the King's own (2) "trafficking" and to attack the Chancellor Seton who although suspect of Papistry was yet an opponent of the Episcopal policy. Meanwhile the old Commission of Assembly was returned in strength with a small minority of extremists who like those included in the former commissions would find that their opinions were not invited. The King's approval of the Commission for Papists was evidenced in his proclamations (R.P.C.VIII.p.172) but the meeting of 15th November to receive the report of the 7 delegates was delayed until 6th December by Royal Proclamation ostensibly for the purpose of coinciding with a Convention of Estates which James appointed for that time. The object of course was that the Kirk Convention should accept the report and simultaneously the Civil Convention pass their resolutions into Statute. Yet the Convention of Estates was prorogued to January and apparently the Kirk Meeting also automatically lapsed. In point of fact save for the presence of the group of ministers who were in some way representative of Synods there was little to differentiate the Kirk Convention from a Civil Convention. The laymen were in any case likely to be the same and those on the Kirk Sederunt were all supporters of the Royal Policy. It was therefore not to be expected that the Kirk Convention would raise any objections to the anti Papist Policy while it was also a material benefit to the King's prerogative to have this policy passed by Statute without waiting for the formal sanction of any Kirk meeting. According the anti Papal Acts of the January Convention passed without previously having been submitted to any Kirk Convention other than the Bishops. Thus the General Assembly made petitions and
- (1) 3 Bishops and 15 ministers only 6 of whom could definitely be said to represent the "opposition" views (B.U.K.p.1061)
- (2) The whole revelation of the affair of Secretary Elphinstone had come to light.

a Convention of Estates received the report. The personnel of the Convention of Estates contained names which had been familiar of old in the Assembly and the confusion of the Estate of the Barons in Assembly with the Estate of the Barons in Convention was complete. The burgess element in both had always been similar but the King's policy for including the lay element of Assembly in Civil Convention had been entirely successful. Joint Ecclesiastical-Conventions had always been of the greatest value in this respect and this one was no exception. The rank and file of the ministry were the only class whose claims were neglected. There is no evidence that their approval of the report was for a moment considered necessary. (1)

The Bishops had now embarked upon their career as the true leaders of policy. Not only did they make suggestions to the King as to policy in the Kirk for the restoration of the Commissariat Jurisdiction, for the restoration of the Kirkmen to their original standing in the Court of Session but recommended civil acts in affairs which really belonged entirely to the administration. The Kirk through its Bishops was rapidly becoming the ruling power in Council. (2) It was they who ultimately fixed the date of the Conference which should discuss the momentous problems of the disputed Kirk Government. Subject to the King they were all powerful. As it actually met on 4th May 1609 the Conference which had originally been to consist of 5 Bishops and 15 ministers with the Royal delegates of Council, was composed of 4 representatives of the King, 9 to represent the Bishops of whom 4 were Bishops themselves, 9 to represent the ministry of whom 4 were known to be not unfavourable to the innovations. The balance was therefore hardly equitable. It was not improved by the further delegation to a committee of 5 of each party "to set down the order of procedure on the model of the Privy Conference. Two of the Royal Commissioners and the Moderator James Law completed the group. This division had been fatal before in conferences and the Presbyterian party was determined to prevent it again. The points of discussion however had been defined. First whether Moderators in Synods and Presbyteries should be permanent or not, and secondly to determine the attitude to the "Caveats" imposed upon the Bishops. The "ministry's" view was largely based upon the reasoned written arguments of James Melville. Although each side chose a speaker trivial arguments on questions of legality and the refusal of the Bishops to consider a written debate practically nullified discussion. The conference was referred to August and by agreement the Assembly postponed till May 1610. The obstructionist policy which characterized all Kirk Conventions both at this time and during the Covenanting troubles with Protesters prevented any material good arising from Conference which became a byword for irrelevant trivialities

(1) See A.P.S. IV. p. 406 et seq. Bivil Confirmation of the acts of Assembly 1602 and 1608 Fines raised by the Treasurer from those lacking testimonial for foreign travel, Papists debarred from office, from lands etc.

(2) see C. VII. p. 5

The Assembly thus prorogued was rendered ineffective for any organized opposition to the schemes which the Bishops had in mind for the resoration of Episcopacy to its full splendour in the Parliament now approaching (after several prorogations) in June. The Articles were largely under Royal influence if they were not nominees of the Crown and the majority according to custom were Privy Councillors. The Bishop Voters had no thought of regarding their caveats and the Commission of Assembly had nothing to propose in the name of the Kirk which the Bishops could not do. Although the nobility might object to the pretensions of the new Estate the recent creations who were directly dependent upon the King for title and revenues were not disposed to protest. Bishops united with the new nobility which was drawn from the laird class were stronger than the feudal nobles with whom had they dared the Presbyterian ministry would have united themselves.

Parliament had drawn from the Kirk the lay element which had given the Assembly its power and barons and burgesses alike had fallen under the Royal influence. The prestige of Parliament under the King was greater than that of the Assembly now deprived of its mass representation of laymen. Parliament recapitulated and confirmed the acts of the January Convention with regard to Papists. The Assembly had owed much of its popular support to the Protestant fervour against Papistry. The Bishops had, by their active support of anti papal measures, effectively prevented any opposition propaganda on this score. Short of a national revolt there was little hope for "true blue presbytery" and the apathy of the people in general was not to be roused by quarrels upon delicate and intricate points of Kirk Government. (1)

The conference in August was not summoned for its purpose was served. The Bishops played a prominent part in the King's policy of control of all estates and Spottiswood directed the municipal government of Glasgow at will (2). They were used also in the King's schemes for the plantation of Ulster and their position was assured by representation upon the Court of Session. So greatly had the policy of the Kirk changed with regard to the holding of Civil and Ecclesiastical office.

(1) See A.P.S. IV. p. 430 et seq. The restoration of the jurisdiction of the Commissariot Courts and the jurisdiction of the Bishops as distinct from that of the Presbytery were also accomplished. The Commissars received power to confirm all testaments. And the central Court of Commissars at Edinburgh was established as the national court for divorce (cf 1564 enactment). It was also given power as a court of appeal to reverse decisions of ordinary commissary courts and was to consist of 4 members nominated by the Archbishops of St. Andrews and Glasgow. Ultimate appeal lay with the Court of Session of which it was the intention of the Kirkmen to gain equal control with the Civil members.

- (2) Original Letters on Ecclesiastical Affairs No. CXXIII Nov. 1609 Spottiswood sent a list of nominees of merchants and crafts who would be amenable "faithful and frack servants who will carry out the King's will. cf Rait. p. 302
- (3) ibid. CXXX. 27th Nov. 1609

Yet Pont's precedent as a Lord of Session was hard to overthrow. In the execution of discipline the Bishops made great efforts to make their authority of greater weight than that of the Presbytery especially in the execution of laws against Sabbath breaking. The Sheriffs had only very laxly obeyed the recommendations of Presbyteries and had themselves frequently fallen under their displeasure. With the Sheriff now in alliance with the King and used to control the shire elections it was hoped that he would be more ready to execute the decrees of the Bishop. (1)

The extent to which the King's power had established itself in a manner undreamed of while he himself was resident in Scotland was nowhere better illustrated than in the conciliatory attitude now adopted by the ministers and Presbytery of Edinburgh which formerly had led the "constitutional party." (see Original Letters. CXXXVI 17th Feb. 1610) and neither the "watchtower" nor any one else protested against the further postponement of the Assembly without any other date being fixed. In point of fact an Assembly was to meet shortly but the plan was to take the Presbyteries by surprise and prevent an organized plan of opposition. The absence of the few leaders cannot wholly account for the indifference of the country at large. There may have been some truth in the assertion that the "reestablishment of the Estate of Bishops was progressing with acceptance even of the majority of the people" (2) Gladstones was suggesting the old means of practical coercion by means of restraint of stipend when he suggested that the full submission of the Opposition ministers could be brought about by the establishment of Bishops in the vacant places in Session "which will both repair the decay of our livings and patrimonies and procure the dependance of the rest of the ministrie who have their fortunes and estates subject to that Judicatory" (3) Toleration which the "democracy" of the period dreaded was making its appearance among the new Bishops one of whom testified that "Papists are not universally of an corrupt (i.e. disloyal) disposition" (4)

The establishment of the two Courts of High Commission which included in their personnel Bishops Lords and Councillors Lairds Commissars and ministers (who were in the main members of the Commission of Assembly) gave the Bishops and Commissioners a spiritual jurisdiction over other ministers which no law of Kirk or State had yet granted them. The High Commission Court by definitely appointing civil penalties for offences which were really spiritual and even the jurisdiction of the General Commission was encroached upon in the powers granted for direct trial of recalcitrant ministers. The Court of High Commission with a quorum of only 5 including the Archbishop was the supreme court of appeal even over the General Assembly

(1) Orig. Letters. CXXX, CXXXIV 11 Jan. 1610

(2) ibid. CXXXV 18th Feb. 1610

(3) ibid.

(4) ibid. CXXXVIII 20th Feb. 1610 The Bishop or the Isles had an armed force at his disposal to put his decrees to execution.

Although the Assembly had been indefinitely postponed the Bishops who were ever watchful of the fluctuations of public opinion altered their view and considered that good success would be assured if it met on May 8th approximately about the time suggested at the Falkland Conference of May 1609(1) Spottiswood's view was that in order to keep even the form of Presbyteries they ministers and people would submit to almost anything. The result was that the King consented to hold the Assembly -not in May for that might have inferred some right of the late conference to settle the date, but in June upon such short notice that the Kirks had no opportunity to arrange a joint programme. King and Bishops sent letters of warning to the Presbyteries which cancelled the proclamation of February which had indefinitely postponed the Assembly and while the quota of ministers from each Presbytery was returned election was only nominally free.(2) The points to be discussed were submitted at the same time to the Presbyteries consideration and dealt with the Excommunicated Earls, the position of Kirks and their provision in the lately erected temporal lordships with apparently ingenuous desire for information on the best methods of payment of stipend. Gladstones played the part of a private intelligencer and declared it his opinion that in general the form of Kirk government which would satisfy the majority was Presbyterianism directed and governed by Bishops. The actual elections for the Assembly which met on 8th June were delayed until as late as the last week of May.(3) The Royal professions contained in the letter to the Assembly expressed a desire for unity and uniformity based upon the acts of the Crown and Assembly. "The singularity of some did for a certain space manteyne aither by wilfulness ignorance a sort of headles government" which he with the aid of the Assembly had tried to remedy. General Concurrence was slow in coming and if not soon forthcoming he would be compelled to establish by the force of his prerogative alone(4) In this assembly although the custom of election of moderator was retained and a formal vote was taken Spottiswood was appointed with little opposition (of the fact that the Assembly was within his diocese) The Privy Conference was little more than a formal continuation of that 3 days colloquy which Bishops and Royal commissioners had held to arrange business, and it is in this Assembly that the abuse of this Privy Conference really became apparent; although its was a larger body than usual all real power lay with the group of Bishops and the Royal lay delegates who had already decided upon their programme.

(1) Spottiswood. to James. Orig. Letters. CXLII 12th March 1610

"for your Majestie knowis tham a peple subiect to change and cairyit easilie with the wind of every report. They haiff at this tym ane strong apprehensioun of the discharge of Presbyteries and for the standing thair of in ony tolerable sorte will refuse no conditiones=so wer it good to use the opportunitie to cutt tham schort of thair power and leave them a bare name quhiche for the present may please but in a little tyn sal evanische. (See Hill Burton Vol V. last Chapter for the other side of the picture)

(2) Orig. Letters. 31 March 1610 CXLII.

The Commission of Assembly had really lost all power as a constitutional body representative of the Assembly. Such authority as it held was the reflected influence of the Bishops. They with the Bishops and Royal Commissioners with the attendant group of laymen ruled the Privy Conference decisions which were almost automatically accepted by the full body and the series of Heads and Conclusions which virtually overturned the whole Book of Discipline were thus accepted by a body who at its first institution had risked all for the independence of the Kirk and the immunity of the "Kirk Policy". These conclusions provided for annual General Assemblies called by the King, and it was only to these and to the King that the Bishops were to give account. Bishops were formally held to be moderators of Synods although the Synod could not displace him except by complaint to the King from the General Assembly. No sentence of excommunication might pass without the Bishops sanction he alone must receive presentations, and all that was required of the Presbytery was a certificate of the good conduct of the incumbent; he alone had the ultimate power of visitation, and although the weekly "exercise" was continued all specific mention of the Presbytery as such was carefully avoided. The oath of obedience to King and Bishop taken (1) by ministers was revived in the form of 1571. So passed the true Kirk of Scotland not without bribery among the poorer ministers although Spottiswood explains that the £5000 scots distributed was the sum due for arrears of stipend to the constant moderators (2) Gladstones was right; the dread of the immediate discharge of Presbyteries even in their circumscribed constitution was sufficient with the other inducements to procure a majority vote. The Northern vote which was consistently contrary to that of the Midland provinces backed by the non commissioned lay vote which numbered over 53 overruled the opposition. Calderwood's contempt (3) for the vote of ministers who had never seen the face of

Notes continued.

(3) P.C.R.VIII.p.467(note)

(4) Orig.Letters.CL.dated May 8th

(1) B.U.K.p.1097 The discharge of Presbyteries actually was produced by Dunbar but was not executed owing to the representations of the Nobility present.

(2) Spottiswood.III.p.207

(3) C.VII.p.97

an Assembly shows a lack of appreciation of the true representative principle. If the vote of the central provinces was now being nullified by such means it was surely an indication that the vote of the godly had never been of the universal character claimed for it. In 1597 and 1598 the Royal policy had been furthered by the same northern vote which had criticized most severely the oligarchy of the Popes of Edinburgh. The idea of the vote of the "Best" persisted among the zealots in spite of the introduction of a fixed numerical quota and the majority vote. As for the nobility the times had indeed changed since the Assembly supplicated that their meetings "might be frequent with the Nobility" whether with commission or without.

In point of fact the Presbyterian party did not believe in the fundamental equality of the ministry any more than the Episcopalians. The Melville zeal placed them in the estimation of the godly far above the simple northern ministers who could not afford to come to Assemblies. The theory of the "best" and of the relative value of votes was in practice no better than the formal establishment which definitely placed a group of ministers as official leaders within the different provinces or dioceses. Now that these Bishops were accepted in Assembly although by a "corrupt" vote the need for the constant moderators had passed. The Bishop or his nominee was to moderate in the "Exercise" although the (1) constant moderators were continued in office for a few months. The reward for such concessions was promised in improved stipends and the plantation of Kirks which a committee of Bishops and Ministers were to suggest to the King. (2)

In all these fundamental changes what was the position of the Commission of the General Assembly. No report of its proceedings since 1608 had been demanded nor its attitude to these innovations criticised. Like a large and ineffective Privy Council its policy was wholly determined by the inner circle of the Bishops. Like the constant moderators it had served its purpose. From the Commission had been created the new Prelates, and by means of the Moderators the Episcopalian power in the localities had been established. Both Commission and Constant Moderators therefore cease to be of vital concern in the ecclesiastical controversies. The Bishop's nominee was usually the constant moderator of 1606 and the Commission of Assembly in its individual membership continued to be the leaders in their Synods and Presbyteries and several of them were moderators themselves in the interests of the Bishops. As a constitutional body however the Commission of Assembly lapsed for the central group which had always directed affairs had become official and authorized members of Council Parliament and even Session. The need for a Commission for public affairs of the Kirk had passed.

(1) B.U.K.p. 1102

(2) *ibid.*

Why was it that the Assembly showed itself so subservient. Royal nomination accounts for a great deal, bribery for perhaps more, the influence of the Royal Commissioners one of whom was the Primate himself, the system of Privy Conference as a method of referring questions which might induce too free and open debate also contributed but the general apathy of the large body both ministry and laity was really responsible. Laymen no longer looked to the Assembly as a real rival of Parliament and such religious fervour as existed was directed towards the repression of Papists. (See the supplication to the King to remind him of his danger from Papist Plots B.U.K.p.1100). The constitution of the Assembly was still inviolate in many respects. The King as yet had not obviously dictated the choice of the moderator and if in the earlier period of Episcopacy and Superintendency a simple minister might moderate in spite of the presence of higher dignitaries the same precedent might have been followed now and upon the nomination or recommendation of an independent moderator an equally unbiassed Privy Conference might have been chosen. If an independent Assembly had rigorously insisted that the Commissioner Voter be confined within their caveats and the permanent position of the Bishops were assailed by the simple device of not electing them Commissioners from Presbyteries (as by the Constitution the Voters were bound to be) the whole system might have been overthrown without any radical revolt. Calderwood held that the New Heads of Discipline might be construed into fairly constitutional practice, and that while the Bishops nominee might preside at the exercise of doctrine the Presbytery might still courageously have exerted a free choice in the moderacy of discipline. Kirk Sessions were left free even should these innovations be interpreted in the most rigid and repressive sense in relation to the higher courts. But the organization of the Kirk on a national scale had become stultified partly through the absence of the real agitators, and partly through the apathy of commons and barons, partly also through the restraints upon freedom of speech and pulpit propaganda rendered more effective by the means of the late Commissions of Assembly and the present Courts of High Commission. Opposition was rendered more dangerous still by the Royal Proclamation of 19th June which prohibited criticism of the late enactments either by private persons or ministers prescribing immediate imprisonment and arbitrary punishment at the hands of the Privy Council (R.P.C.VIII.p.472) This act apparently crushed such individual opposition which the zealous such as Simson, Balcanquhall and even the politic Galloway might venture

The Synods which henceforth were held were no longer "provincial assemblies" but Diocesan convention of the see of Fife and even the old names Synod of Lothian, Synod of Angus etc were comprehended in the General term of "Diocesan Synod of Fife" and the Bishops letters of warning were sent to districts as far distant as Perth for

(1) convention in St. Andrews "Privy Conference" in the constitution of the Assembly had proved such an effective means of silencing opposition that Gladstones hastened to apply it to Fife Synod where it had not yet made its appearance although the custom had already grown up in several other Synods. The method of election of the conference was an impartial one. The Bishop nominated half and the Synod the other half although this was probably not the method in the General Assembly where either the moderator chose his own or asked the Assembly to choose them for him. The unwillingness of the ministry to hazard deposition for the sake of acts whose extent of infringement of the constitution was as yet hardly known (for the acts were not produced) prevented the organization of definite opposition even although some Presbyteries protested that the members who allegedly represented them on the fateful Assembly had no commission from them nor did they represent the opinion of the majority of the Presbytery. Why was it that the malcontents did not appeal as of old to the laity of the districts to come in strength to the Synod meetings as they still if they so desired might do? That Gladstones was not afraid of the lay attendance is clear for in his letters summoning the Diocesan meeting which corresponded to the Synod of Lothian he suggested that 2 or 3 commissioners from each parish also attend in addition to the ministers and there is evidence of a fairly strong lay element in the Synod which did not join in the opposition against the Bishop but rather buttressed his authority. That Calderwood seems to resent this lay vote is clear, as he also resents the fact that the Bishop carried resolutions without actually taking a vote; if the vote was adverse he regarded it simply as an "advice" which he was by no means bound to accept. The zealots were wroth when they found that their own methods could be executed with such deadly effect. Gladstones "wisest and most discreet" whose vote he most regarded were different persons from those "best men" whose opinion even when in a minority the Synod of Fife had suggested ought to be followed (1596-97)

(3) In Lothian Gladstones methods were very similar. Haddington although by no means prepared to go to extremes had prepared a protestation suggesting a conference for solution of difficulties similar to that of Falkland May 1609 which had referred its conclusions to a later conference in August which had not materialized. The veteran James Carmichael who was the constant moderator had a long record of experience in public business behind him for he had been the Clerk to those Conventions of the Wacriff and agent for the Central Committee of 1592-93 was reluctant to present the protestation and made suggestions on his own authority for restraining undue episcopal authority. His opinion might be regarded as the average one and that he realized the hopelessness of resistance and hoped for better

(1) C.VII. p. 125.

(2) Actually the Haddington MS Records are missing 1608-1613

(3) The Bishop however nominated the Privy Conference himself.

execution of the two chief purposes of the Kirk, the campaign against Papists and the establishment of a fixed provision for ministers, indicates that opposition to the Government had failed to achieve any thing and that the moderate view looked to Royal support as the only remedy. The use of the privy conference was an excellent way of shelving awkward questions in Synod as in General Assembly even in such matters as the formal refusal to recognize the Episcopal jurisdiction.

The consecration of the Bishops by the Bishop of London was as great a blow to Scottish independence as to Presbyterianism (November 1610) Resistance even of such Presbyteries as those of Fife and Haddington was slowly beaten back. The stern treatment meted out to the exiled and the banished had had the effect which as far back as the regency of Morton had been desired by the government (Morton had threatened to hang the ringleaders) The most zealous had no desire to "suffer" and were unwilling to admit that the people of Scotland were indifferent to their sufferings. The commons followed the opinions of their feudal superiors and these were by no means adverse to the new system which gave them opportunities of securing their tacks and making fresh bargains with the new prelates. An alliance between Bishop and laird meant the presentation of ministers who would be amenable to such bargains and tacks for the authority of the Presbytery had now fallen very low. Gladstones in recounting his quarrels with the Synod of Fife with some of "the auld Melvinian bruide" tells how he repressed them "to the great contentment of all gude and faythfull subjects that were present in great number" (1) and this seems to infer that there was some attendance of laymen after the model of Lothian. The cry was for uniformity of discipline throughout the dioceses for the Presbyteries varied considerably in many points. It was stated that henceforth no more General Assemblies were to be held and that therefore the Diocesan Synods must take their place and Gladstones held that his diocesan Synod had as much authority as a General Assembly in which the King was not present. When the records of these Diocesan Synods begin they show that a lay element did attend to the support of the Bishop and the Royal programme and though there is no indication as to how it was appointed it was presumably in the nomination of the Primate (2) In April 1611 21 parishes send lay delegates

- (1) Original Letters. CLVIII & CLIX. Gladstones enlisted the Royal interest in finance in dealing with the execution of the law against adultery, the profits of justice of which ought to have gone to the Treasurer or Chekker. The actual Commissioners who had been appointed at one time or another to collect these fines seldom delivered the fines to the treasurer "and if it end in ane monopole your majestie will never reape commoditie of the samin"
- (2) Synod Records of Fife (Abbotsford Club) 4th April 1611 The Synod had even the power to elect the Kirk Session when in visitation it was found to be inefficient or disaffected. *ibid.* Linlithgow July 3rd 1611. cf. C.VII. p. 156

Royal influence in shire elections under alliance with the Sheriff advanced simultaneously with Episcopal influence in Synod and Kirk Session. The defection of the layelement prohibited any national demonstration and none of the letters of the period show that the Bishops had any fear of a baronial rising in response to an appeal of the zealot faction. Cupar it was stated was a hotbed of disaffection but it was thought that such disaffection would be crushed by the co-otion of a leaven of well affected ministers (and laymen) or the transfer of the Presbytery from the county town to Falkland. Spottiswood on the other hand was more than the other Bishops immersed in civil affairs. Though he informed the King of his triumphs in securing the obedience of his Synod at Irvine he was equally interested on the King's behalf in securing the election of municipal councils in Ayr and Glasgow (cf Rait. p. 303) (1)

Gladstones Diocesan Synod metting at Perth in September (3rd and 4th) laid down stringent rules enforcing fines for non attendance of ministers (2) with the intention of preventing a boycott which would have lowered the prestige of this substitute for a General Assembly. For a short time it looked as if St. Andrews as the seat of the principal High Commission Court would return to its place as the chief ecclesiastical city of the Kingdom, but the magnet of Edinburgh and the Law Courts drew the Commission to the Capital so that Privy Council and Session might be cognizant of its verdicts (P.C.R. VIII. p. 273 25th October 1611) The great problems connected with excommunication for murder had lapsed for some time but it was realized that ecclesiastical condemnation before civil sentence had been passed was prejudicial to an impartial civil trial, and except in notorious cases the practice seems to have fallen into disuse especially since the King had taken up such an antagonistic attitude towards the summary form of "spiritual horning". With this coalescence of the Civil and Spiritual Jurisdictions (3) therefore an advance was made. The Synod of Fife agreed that an examination of the defendant on oath before any ecclesiastical court on a capital charge was not to be enforced unless he were willing to give his oath of innocence. If indeed his appearance for the purpose of satisfying the Kirk of his repentance prejudiced his life or civil liberty his absence was not to be considered contumacious and therefore ultimately worthy of excommunication so long as he sent a written promise to satisfy the Kirk. All such capital charges and the greater moral sins were taken over by the Synod for the matter of their ecclesiastical satisfaction just as excommunication was now within the control of the Bishop himself.

(1) Orig. Letters. CLXIX (Oth June 1610)
ibid. CLXX.

(2) Recs. of Synod. of Fife. p. 34

(3) April 21-23 1612 Recs. Synod of Fife. p. 45

These judicial changes were at the instnace of the King himself. see Spottiswood. III. p. 215

The Bishops were now firmly established in practice. All that remained was their establishment by formal act of Parliament in their full jurisdiction as they had already obtained it in the pseudo Assembly of June 1610. The Parliament was to meet in October but as early as July preparations and propaganda for influencing elections were set afoot. Alexander Hay was sent to prepare the way in the first instance by consultation with the Bishops and the Chancellor as to the best methods. James first consideration was ~~an~~ unusual a monetary one i.e. a grant for his daughter's wedding but strangely enough although later the most energetic supporters of the scheme the Bishops were not at first taken into the Royal confidence on this score. No longer ~~is~~ there a Commission of Assembly to suggest measures and prepare Kirk articles for Parliament. The Bishops without consulting any other Church Court conducted the whole negotiations. Had even the constant moderators been consulted some constitutional semblance might have been preserved although there was no longer any suggestion that the Estate of the Kirk should be represented in Parliament by the inferior clergy, whether moderators or not. Gladstones described with great pomposity how he convened the Secretary (Hamilton who had obtained the post from Hay) and Glasgow "for advising anent our affairs to be handled in this approaching Parliament" discussing those articles which ought to be omitted and those which the King might equally well execute by simple proclamation and it was only when they were satisfied that there were some things which must have Parliamentary ratification that the Parliament was officially proclaimed. (2)

The Kirkmen in power had far less constitutional sense than nobility or burghs. The group system may have lent itself to this view for the controlling and limiting aims of the Kirk even in its best days were directed towards the protection of their own estate rather than to a formal theory as applied universally to the civil constitution. The tyranny of the Melvilles had it been able to express itself in civil enactment would have been as inconsiderate of true democracy as were these who were regarded as renegades by the extremists. If the result of the December 1596 disturbance had been in the Kirk favour would a practical ecclesiastical tyranny have been established under the very people who now held the reins (for the majority of the original commissioners of 1593-6 had with the exception of the Melvilles succumbed to the bait of the Bishops). The Bishops were the chief instruments used by the King not only for the subversion of the independence of the Kirk but for controlling the electorate and the presentation to Parliament in Burgh and shire. (cf Rait. p. 302-303)

(1) Orig. Letters CLXXX.

(2) P.C.R.VIII.p.452 23rd August 1612.

Gladstones and Spottiswood were as unscrupulous politicians as any of the new or ancient nobility. Gladstones calculated skilfully the assets. Chancellor Dunfermline was hated by the people who on that account would support Bishops and the Kirk policy to which it was known he was opposed. The forthcoming Parliament was popular with the nobility and commons merely because it was thought that it was summoned in opposition to the Chancellor's wishes. "In the mean tyme" said the Primate "we shall not be idle to prepare such as have vote to incline the right way for all men do follow us and hunt for our favour!" Nevertheless he hastened to assure the King that since the Bishops had been created by the Royal Power no estate was so dependent upon the King for its very existence. (1) Yet Spottiswood was the more discreet Royal agent and it was he who went to the King for final preparation of business (2). The almost complete separation of the general interest of the representative Kirk from the group of Bishops who alone directed Kirk affairs in and negotiations with Parliament, is clear from the fact that when the Synod of Fife met in St. Andrews September 29th and 30th only 12 days before the riding of Parliament no reference was made nor instructions given to the Commissioner Bishops who alone could vote for the Kirk. Yet the elections in the shires were taking place during that week largely influenced by the Bishops with an object which must have been perfectly well known. But the Synod made no protest (2) Yet these carefully chosen Commissioners of Shires and Burghs in actual practice were little different in actual personnel from those who had attended the General Assembly when it was an independent constitutional opposition. Lairds and Burghs seemed to have made the decision that their development as Estates was to be within the Constitution of Parliament and not completely outside it.

There is thus no record of any consultative body being in attendance upon the Bishops during the time of Parliament. Haddington's account of the choice of the Articles indicates that whatever might be the attitude of the nobility to Episcopacy they were certainly unwilling to admit the Royal interference in their freedom of choice even although since all the Bishops were the King's creatures it was of little real consequence which Bishops they chose. (3)

The decisive act of this Parliament met with little opposition. The Golden Act of 1592 was set aside and the argument of the preamble to the act definitely stated that this alteration was made after mature deliberation and discussion between King and Assembly. The Parliament of 1597 which gave the vote in Parliament to the Kirk had remitted the adjustment of the discipline to King and Assembly

(1) Orig. Letters. CLXXXI. August 31 1612

(2) ibid. CLXXXIV. Gladstones was jealous of the influence of Spottiswood and kept a watch over his movements through the medium of John Murray groom of the bedchamber.

(3) Melrose Papers. I. pp 15-16

These decisions as to the office of persons provided to Bishops had only been concluded in Assembly in June 1610 with consent not only of godly ministers but of the Council and a large number of "best affected nobilitie barones and commissioners of Burrowis". These conclusions were formally ratified with the notable omission of several clauses which had asserted the right of the General Assembly over the Bishop, and the right of holding annual assemblies (1) The establishment of the High Commission which had not been accepted by the Assembly was set up as the ultimate court of appeal. The tax which virtually bought these privileges was strongly supported by the Bishops although their attempt to grant the enormous sum of £800,00 was opposed by the other Estates and only a fraction of this was granted. Nevertheless £240,00 allocated in the old manner 1/2 upon the spiritual Estate 1/3 upon the Nobility including barons and 1/6 upon the Burghs was a proof of the reality of the alliance for mutual advantage between King and Bishops. (2)

Thus with little struggle the change had been accepted in Scotland. Synods continued to meet in the new diocesan fashion without raising question as to the right of the Bishops to deal with Parliament without any real commission and without observing any of the caveats of 1600 laid upon Voters in Parliament. The Synods dealt with little of national importance save the great question of Papists and the individual records of Presbyteries show that only the simplest cases of discipline were dealt with and even the notices of these were of the briefest. The Presbytery as an expression of a national outlook had been almost completely overthrown and the position could have hardly been worse had the King's threat of complete discharge been put into effect. (3)

- In the Synods a share of the administration of the poor law devolved upon them in collaboration with the newly created Justices of Peace (1609) and they were also concerned in the revived energy of the Commissars several of whom were (4) also members of the High Commission. Only in the matter of Papists did any policy on a national scale make itself evident. In dealing with the question of the Papist Earls the Synod of Fife insisted that any brethren of its membership who had vote either in Council or High Commission should refuse to grant any further delay in the processes against the Earls until they had fully satisfied the Kirk and recommended a supplication to the King on the point. Something of the old Fife spirit breaks out in the demand for examination of the rentals of the Bishops to make sure that no alienations or tacks tending to delapidation had been granted. And the Synod exercised a strict surveillance over the new Commissars.

(1) A.P.S. IV. p. 469 470 of the act of 1597 *ibid.* p. 130

(2) A.P.S. IV. p. 475

(3) cf the MS Records of Haddington which recommence February 1613. In March 10 the Presbytery was charged under hornings to register all deaths with the Commissar so that testaments might be confirmed.

(4) Synod Recs Fife. pp 56, 70, 77. In Haddington the Provost appeared in Presbytery as representing the J.P.s. 11 Aug. 1613

The Synod however was no longer the free assembly of all ministers where interchange of opinion and information from the various districts helped in the construction of a national policy. Only such as the Bishop desired might attend upon his written warning. The same principle of payment of expenses was applied to Synod as it had been in 1597-98 to the Assembly. If a minister pled poverty the expenses of his travel were to be borne by the contribution of the others of the diocese who had larger stipends (1) Almost all opposition had ceased, and several of those who had been most prominent in resisting the Royal Policy were induced to accept Bishopsrics themselves. The leaders were scattered; James Melville died in 1614 and few remained to fight against an apathy which was common to almost all (2) the "commons". The death of Gladstones and the subsequent transfers among the bishops induced the union of the two Courts of High Commission which now were supreme in all causes of morals, doctrine, Papistry etc. with penalties not only spiritual as far as excommunication, but civil as far as fining and imprisoning, upon warrant from the Privy Council. The supreme ecclesiastical authority was therefore given to a body which had no warrant for its power from the Assembly.

Assemblies were now entirely at the will of the King and in July 1616 when proclamation of a General Assembly was made it was specifically stated that the King had only been persuaded to agree to it upon the urgent representations of "the prelates and reverend fathers of the Kirk" as to the alarming increase of Popery. The permanent policy of the Bishops was to attempt to sink all differences of Kirk Government in a united campaign against Papists, but it is curious that an Assembly should have been mooted at such a time. The King was bent upon change of ritual as he had effected change in external Kirk government and as Professor Masson points out the General Assembly was still the only agency through which improvements could be smoothly made and the lingering Presbyterian remnants removed (3). The summons to Aberdeen was an indication that the vote of the Northern ministers was still essential for a majority. The Royal party had for several Assemblies paid the expenses of travel for those ministers who would otherwise never have seen the face of an Assembly and by holding the Assembly in the North the drain upon the Royal funds was correspondingly less. There was just as much truth in the suggestion of the opposite faction that the trouble came from the Papists in the North and a Northern Assembly would therefore deal more competently with individual and local problems of Papist activities.

(1) Synod Records of Fife. p. 79 July 1614

(2) In Burntisland however the intrepid Watson now minister there "and the principal reular of that toun this lang tyme was held resonsible for a riot against the King's officer who w s attacked by the women of the town" of the bangstar Amazone kind" and was suspended by the Archbishop. April 1615 (Orig. Letters. II. CCLXVIII.)

(3) P.C.R.X. p. ciii.

The method of election was not so arbitrary as might have been expected. The hasty summons necessitated the recognition of the Presbytery as the unit of representation although the whole tendency of the Royal Policy had been to repress that body. The Bishops letters of warning enjoined the election of commissioners whose expenses must be paid by the rest of the ministers of the Presbytery under penalty of loss of stipend. Of these commissioners whose number was not specified the moderator of Presbytery had to be one. These moderators though in theory the nominees of the Bishop were in practice the old Constant Moderators who had simply been confirmed in their position by the Bishop's appointment. The letter addressed to Haddington by the Primate announcing "an Generall Assembly to be halden at Aberdein (required) the brithren to choyse out among ther number the maist dæscreit and experientel to rasen upon sic affairis of the Kirk as suld be intreated ther at meeting" The Brethren referred the matter to the following week and warned all the absentees to be present. On 31st July they elected Mr. Thomas Ballantyne to accompany the moderator (James Carmichael). The commission granted them described them as the "undowtit commissioners (of the Presbytery) giving granting and committing to them ther full plain and frie powar express command and charge in ther names to compeir befor the Assembly of the Kirk of Scotland to begin at Aberdein the 13 of August instant and ther in ther names torason propon and vote to sic things as salbe proponed tending to the glorie of God and the profeit of this Kirk according to the word of God ans disciplin contened therein quherunto thei have sworn and subscribed" (1) When however after the Assembly the question of expenses arose, only Ballantyne received any reimbursement. Presumably the £100 salary of the agent moderator was still in force and he was expected to pay his own expenses from that. On 28th August the Presbytery agreed to pay according to the act of Assembly (1597-98) and gave Ballantyne £20 "according to the order of other presbyteries". It was Ballantyne also who made the official report of Assembly business to the Presbytery. (2) Only a proportion therefore of the Assembly was in any sense elective. Laymen were there without commission the Bishops and Constant Moderators were likewise without Commission on a representative basis, and a list of newly created doctors of divinity took advantage of the ruling of the 1602 Assembly that Doctors were an integral part of the composition of an Assembly. The system had become a meeting of the Council attended by a Kind of minor Convention of Estates with the Bishops, their nominated moderators and a partly representative convention of ministers. The composition of the Privy Conference reflected the composition of the main body but so as to minimize the importance of the representative

(1) Haddington Records. MS. III. 24th July 1616, 31st July, 7th August.
 (2) ibid. 28th August.

element. The Privy Conference was now closely analogous to the Lords of the Articles except that as yet they reported their decisions or "advice" to each session of Assembly and a vote might apparently at any time have been taken. The system of report was used to protract business until the Southern ministers should find the expense intolerable and for this purpose the King's proposals or overtures for the repression of Papists were examined in detail in Conference and Public Assembly. The result was an elaborate system for executing all past acts against Papists and Jesuits, non communicants women as well as men, and it was hoped that by reference to the Court of High Commission that few loopholes of Escape might be left. Unauthorized schools kept by women it was stated, were often the sources of propagation of Papist doctrine and all such schools were prohibited except after trial by the Presbytery and warrant of the Bishop. The old abuse of pilgrimages persisted in spite of half a century of legislation against it. Not only the High Commission was called in but the new authority of the Justices of peace was requisitioned for the purpose whose duties as judges of idle vagabondage were extended in various directions. Even doctors of medicine and apothecaries came under suspicion as Papists and were compelled to seek testimonial from the all powerful Bishop. (1)

Far from now controlling the Royal Power the Assembly under the Bishops was more amenable to the Royal will than even a nominated Parliament. The Royal overtures (2) were approved without demur for the majority of the Privy Conference who discussed them in the first place had probably had a hand in their formulation, and the ultimate vote of the Assembly had been calculated to a nicety. That there was little spontaneous business enacted is clear from the immediate production of the new confession of Faith (3). The Assembly not only accepted the Royal suggestions for revision and reconstruction of Discipline to be embodied in a Book of Canons but surpassed them by remitting the question to the Bishop of Glasgow and Struthers on of the ministers of Edinburgh, subject to the approval of a Commission which in many ways resembled the "General Commission" discarded in 1610.

(1) B.U.K.p. 1120

(2) For order to prevent the depopulation of benefices, for plantation of Burghs, conversion of Papists, for a new Confession of Faith, and a Catechism, to be taught in schools) Uniformity in Kirk service, and uniformity of Discipline to be laid down in a book of canons a proved by a commission of the Bishops and 15 ministers (named) Important educational advance was suggested in the renewed endeavours to induce the Synods to support two Student Bursars at the New College in St. Andrews i.e 26 in all. And for the first time a Council universal order was established (ratified by act of ~~Parliament~~ ^{Council}) for the registration of baptisms marriages and deaths)

(3) B.U.K.p. 1132

(This was not enforced universally until the Statute of 1854)

This commission consisted of the complete list of Bishops and 17 ministers who had in the majority of cases served upon former commissions (it even included the rebel William Scot minister of Cupar) and its powers were to consider the whole question of delapidation to try offenders in this respect and to establish a formal rule which was to have the full force of an Act of Assembly; in addition they were given the old power of plantation of "burrows towns" and the ultimate decision of the question of the Canons of Discipline and uniformity. To all intent and purposes the "general Commission had been restored, when for any reason the King and the Bishops desired the passing of measures which might induce controversy. The members were in point of fact only an advisory body which might share with the Bishops any odium likely to ensue (1)

The General Assembly had now become in almost every way a Court of Registration for King and Bishops decrees, to as great an extent as Parliament and Convention. Spottiswood who had used for the first time his Episcopal right to moderate without formal election reported to the King on Ecclesiastical affairs just as the Chancellor reported on Civil achievements. As the King in this corrupt period might make alterations in the finished Acts of Parliament so in the matter of Kirk decrees he claimed an even more arbitrary power of supplementing and interpolating. (2)

The acts of General Assembly were before long put to execution by Acts of Council ratifying the arrangements for Parish registers, reinforcing the acts against Papists and Jesuits, handing over to the Bishop the power which the Presbytery had formerly possessed of examining outgoing and incoming ships and their passengers for the purpose. (3)

Since 1612 the King had determined upon fundamental change in the forms of worship as well as in Kirk government. His visit in 1617 was actuated in no small degree by the desire to have the Scottish Kirk uniform with the English one. The Convention of Estates of March which was large and representative, mainly through the activities of the Bishops

(1) B.U.K.p. 1131 they were to meet upon the 1st of December

(2) Sp.III.p.236 Even as early as this the King wanted to insert in the acts the Five Articles. The Bishops found courage to protest against the "Popish" alterations of the Chapel Royal and James submitted although allegedly for other reasons. Orig.Letters.II.CCCXIV.p.496

(3) See P.C.R.VIII.p.670 et seq. 10th Dec. 1616

On 9th December a letter was received by the Presbytery of Haddington from the Bishop, reminding them of the local arrangement made in the last Synod for the maintenance of students of divinity in St. Andrews. The contribution was to be paid from the "penalties" of each parish Kirk by the minister. The sum due from Haddington was £46 which was apportioned among the various parishes. (9th Feb. 1617)

granted a large taxation of £200,000 apportioned in the usual manner so that the Ecclesiastical Estate was responsible for for £100,000.(1) The Parliament at which James himself should be present was proclaimed for 27th May although it was later prorogued to June 17th. James arrived 16th May. There were indications that the anti-Episcopal party was bent upon making an effort to remonstrate in Parliament but apart from Diocesan Synods there was no method of making their views known. The Bishops kept a tight rein over the appointment of delegates and independent action was impossible. To make matters worse the Bishops made a show of constitutionalism, by advocating the appointment of commissioners to the Parliament to assist them with advice in the manner of an Estate. These delegates seem to have been appointed in the Diocesan Synods and therefore under the Bishop's supervision. In 1597 and 1604 the Commissioners of Assembly had requested such advice from the Presbyteries and Synods. In this instance the Presbyteries do not seem to have been consulted. No fewer than 15 were appointed in the Diocesan Synod held in Edinburgh before the Parliament. Although the Fife Synod met in April there is no record of the appointment of commissioners although it was suggested to the Bishop that he should consult as to the procuring of an Act of Parliament permitting the employment of the "penalties" of each Kirk for the support of Bursars. The tenour of the Five Articles was known by this time and the "sincerer sort" feared that if these delegates from Synods reached sufficient numbers as a deliberative and advisory body for the assistance of the Bishops, that opportunity would be made to turn this "meeting of the Ecclesiastical Estate" into a pseudo representative General Assembly which would "vote and conclude" according to the will of King and Bishops. While the "sincerer sort" would have welcomed the election of commissioners to attend upon Parliament provided that the appointment had been made in freedom in the Presbyteries they attempted propaganda to hinder such appointments when made in Diocesan Synods where the influence of the Bishop was paramount. The Presbyterians pointed out that this kind of Convention without any control over the Bishops or any right of veto was intended to reduce the Conventions of the Kirk to the level of the English convocation. Nevertheless the delegates of Synods met as an advisory body in the Little Kirk of Edinburgh both before the appointment of the Articles(2) and after it, during the interval of Parliament after the manner of the Estates of Barons and Burgesses. Their meetings were presided over by one or other of the Bishops who were not upon the Articles. In addition to this dependent "Ecclesiastical

(1) A.P.S. IV. p. 583 The Bishops were to convene their vassals on 17th August when the stent roll was to be set down.

(2) C.VII. p. 249 They sent a protest to the King that they were not a General Assembly and therefore incompetent to consider the Five Articles.

Estate which may or may not have been largely nominated by the Bishops, there was among the usual concourse of people to Edinburgh in time of Parliament, a group of ministers who had not accepted commission from Diocesan Synod but who without commission apparently other than "inspiration" had resolved upon some kind of vindication of right possibly by open protest: ation in Parliament or perhaps by an attempt to influence the barons and burgesses either as Estates or as members of the Articles. The latter alternative was rendered impossible by the fact that the Estates no longer appointed their own representatives on the Articles but the former system of cross nomination had been revived in 1612 to secure the appointment of those favourable to the Royal purposes. This meant that Barons and Burgesses were chosen by a group of Bishops and Nobles who were practically nominees of the King (Rait, p. 370). The hostility of the Bishops to the Erected Temporal Lordships and the knowledge that stringent alteration were contemplated in the assignations of stipends and tithes brought about the opposition of the Lords to the choice prescribed for them by Bishops and King. As the Bishops were all more or less under Royal influence the Lords even had they wished could not have avoided appointing a subservient ecclesiastical quota. The meeting of ministers (who numbered 80-100) in the Little Kirk under the Presidency of a Bishop was concerned not with national questions but with the details of the acts appointing the commission for stipends which the Articles were to pass. The non official meeting upon the specific assurances that no change in the Constitution of the Kirk was intended, dissolved except for a minority who remained as watchdogs and agitators lest these promises should be evaded. It was the energy of these which discovered the articles prejudicial to Kirk liberty which had already been passed by the Articles in particular that which gave to the King with the Bishops and a competent number of nominated ministry the full authority of a General Assembly. It was this non official group which organized the protestation in open Parliament in defence of the freedom of Assemblies. The unofficial group did not join with the assembly in the Little Kirk but drew a section of that meeting to a conclave in the "music school". Thus the meeting which drew up the protest was held without Bishops whose moderacy would have at once preveneted such rebellious action. Calderwood who arranged the meeting realized that those men were not heroes and that it was only the thought that this was the ultimate crisis that induced them to record their protest. The Lords Articles had obviously intended to take the Ecclesiastical Estate by surprise for apart from the Bishops they had no vote in Parliament and but for the vigilance of the "wacriff" Calderwood the fateful article would have been passed with the rest of the 40 in the final session of Parliament. Although the Clerk Register refused to register the protest the King agreed to "pass from the Article" provided he could maintain the dignity of the prerogative

(1) C.VII.p.252-254 Sp. III.p.241

Thus in the completed acts although there were several which affected the position of the Bishops as independent of the Assembly (1) the article which had aroused this protest was not engrossed. Those who had prevented it were therefore penalized in particular the actual persons who had presented the petition. Fiftyfive ministers among whom were Galloway and Hall were involved but the stringent and immediate punishment which followed upon the ringleaders Simson Hewat and Calderwood soon induced the submission of the others. The meeting of the ministers was stigmatized as a "mutinous assemblie" by the court of High Commission, but the King in his arguments with Calderwood defined his attitude to Kirk and Assemblies. The latter he said were useful for the preservation of doctrine, for the prevention of schism etc and "to put up petitions to King and Parliament". But in "indifferent matters of order and rites not affecting Kirk policy the King with the advice of Bishops and a competent number of ministers might conclude without an Assembly. This view the zealots would in no wise admit. These proceedings of retribution were concluded immediately after the rising of the Assembly. It was therefore perfectly clear that in negotiations with King and Parliament outside interference was not to be tolerated. All Kirk acts must pass by means of the Bishops just as in the other Estates all Parliamentary acts must pass through the accredited representation on the Articles. The Kirk more than any other estate was at the mercy of the arbitrary power, because in the absence of the General Assembly it could hold no "free" meeting as an Estate while its representation on the Articles was not under its control in the slightest degree. (2)

- Beyond this controverted article which the King had been compelled to drop, the Parliament was a notable one particularly in its arrangements for stipend and its attitude to tacks of teinds. At last a system was adopted which had been in process of construction for many years i.e. as early as 1569 developed and extended in the proposed Platt of 1596 which had had to be abandoned as a universal measure. The chief principle of the new act for the execution of which a Commission was appointed, was that each minister ought to have a permanent stipend allocated out of his own parish teinds. (What had alarmed the Lords was the suggestion that the 1596 proposal which was to put the Kirk in possession ultimately of the whole teinds, was to be executed) The Commission now set up consisted of 8 Bishops, 8 Lords, 8 Barons and 8 Burghesses who were to establish perpetual local stipends in each parish and so further the full plantation of all Scotland with competent ministers. The scheme was a popular one in spite of the abuses which Calderwood cites (303 Vol. VII)
- (1) A.P.S. IV. p. 529 Bishops to be elected by Chapters.
 (2) See Original Letters. CCCXVIII; C. VII. p. 262
 (3) A.P.S. IV. p. 531; Connell on Tithes. I. p. 111.

The commission had power to assign and augment stipends up to 500 merks in addition to manses and glebes with the maximum at 1000 merks. Kirks already over the minimum 500 were not to be interfered with. The tacksmen from whose teinds these assignments and augmentations were made were to be recompensed by renewal of their tacks for long periods so as to prevent undue hardship. This was what had been found so difficult in 1596 when the animosity of the tacksmen and the owners of teinds had proved too strong for the Constant Platt as evolved by Lindsay of Balcarras. (1) The establishment of a minimum stipend was an advance upon the arbitrary assignments of the Thirds which had been temporary and only for one year. The system lent itself to partiality and corruption and the commission's chief duty was to arrange reasonable terms between patrons who considered the teinds as belonging to them and the tacksmen who had leases of teinds from bishops or laymen, and those gentlemen and others who resented paying teind to the collectors of stranger tacksmen and welcomed this suggestion as fulfilling in some measure the hypothesis of the first book of Discipline that each man should possess his own teind paying the kirk himself its dues. The commission however only extended to Lammas 1618 and the scheme was not by any means fully adjusted. The result was that in 1621 the commission was revoked but little was done and the act of Revocation and the introduction of valuations and sales of teinds altered the situation once more. What the nobles had feared from James in 1617 was realized under the regime of Charles and was the ruling factor in alienating them from the cause of the King and Bishops and of throwing them into alliance with the Presbyterians with whose quarrels on point of ritual they had little real sympathy.

(1) See Connell on Tithes. Book III. Chapter II. p. 111.

The tithes lay (i) with Bishops who since their restoration held them along with other rents subject to provision of ministers. (ii) Ministers whose teinds had not been alienated and who drew the whole of the parochial tithes. These remained unaffected by the new act. (iii) with Laymen who had either seized them at the Reformation or had obtained perpetual feus of them from the "auld possessors". The whole revenues of those spoils had been used by laymen as Lords of Erection of old or recent creation sometimes subject to thirds and sometimes not. Now these were all brought into the field and induced to provide for the ministers out of the teinds. (iv) the Crown which still held tithes along with temporality of benefices which had not been erected or bestowed. While the whole of the tithes were not to go to the Kirk as the 1596 act had suggested the ministry got a fixed minimum stipend from them. The Commission was active. Lords of Erection and Bishops had, to save the labours of collection given long tacks for period which practically implied almost complete alienation. In 1617 Bishops tacks were restricted to 19 years but no limit was prescribed for the Lords of Erection. Tacksmen who were unwilling to provide were bribed by renewals for enormous periods which practically gave perpetual possession. e.g. Appendix. XXXI.

The general body of the ministers were thus appeased by the hope of substantially augmented stipend- the price paid for submission to the Royal policy. The King had expected no opposition at all yet his Five Articles which would have been the first business of that substitute for the General Assembly which he had had to abandon, remained unfulfilled. He attempted something like a "convention of a competent number of ministers" at the time of the High Commission. They were 36 in number and were summoned either individually by King and Bishop or were elected from the Synods (1) The conference in the Castle of St. Andrews would not consider the Five Articles and withdrew to the Town Kirk to formulate its scruples. The King meanwhile insisted that as a Christian Magistrate his policy was not to be determined by their attitude (2) A General Assembly was the obvious remedy but the King had no intention of being driven to tyrannical measures by a direct refusal on the part of that body. Galloway who deprecated only one of the Articles assured the King that the rest would be accepted. According to Spottiswood the Assembly was provisionally fixed for 25th November on condition that the representatives chosen in Synod were likely to agree. Nevertheless the date was not fixed when the actual elections were made in the Synods but such names as were presented were evidently thought amenable enough to warrant the proclamation of November 4th summoning the Assembly for 25th November. (3) When unsuitable elections were made the Bishops quashed the nominations. Even so according to Calderwood 7 Synods sent no delegates. Thus the same methods were instituted as had already been used to obtain tractable Parliaments. Nevertheless when the Assembly did meet in St. Andrews the Royal policy was accepted neither in the Privy Conference nor in open Assembly in spite of the threatening Royal letter. While the 5 ministers appointed as a separate committee to consider how far the Assembly would agree obtained only concessions as to private communion in cases of deadly sickness and the Anglican form of communion, the excuse for delay was snatched at in that Commissioners of Synods Burghs and Gentlemen were not there in full strength, and the questions were referred for consultation in the localities with parishioners and elders. This appeal to the lay element had not been made for many years for normally the laymen supported the King. The appeal to popular opinion showed that in extremity the Kirk was ready to adopt a democratic attitude which she had despised in the days of power. Where were the "gentlemen" to be elected if their presence was of such importance. There had been opportunity at the Synods or at the Michaelmas Courts but for long the attendance of gentlemen at Assembly had lapsed as an integral representative part of the Constitution. Spottiswood held the view that the ministers attitude was induced to "pleasure ill disposed people and admonished them to look rather to the King than to the "vain applause of factious persons"

(1) Sp. III. p. 247; C. VII. p. 281

(2) P. C. R. XI. p. 1v.

(3) P. C. R. XI. p. 254 4th Nov. 1617

(4) Sp. III. p. 248; Matheson. p. 314

Not all the letters of supplication and excuse could palliate the Royal displeasure. The old weapon of restraint of stipend in use since 1584 had to be used to induce obedience and acceptance of the Five Articles. (1) The Archbishops protested that only direct defiance and insolence would have resulted if the Articles had been insisted upon. But the financial pressure soon had its effect especially upon the Edinburgh ministers who having lost prestige in the troubles of 1596-97 never recovered as a body their old independence. The old leaders were rapidly dying out and even the most daring of the newer leaders were too isolated to defy authority with any advantage. Never before had the King's "creatures" so exasperated him and his distaste for General Assemblies was confirmed. While Calderwood regards these "alarms" of the Bishops as subterfuges, ~~to~~ the evidence of the correspondence shows that the King did have intentions of conducting affairs by the aid of Bishops and a co-opted number of ministers without regard to the old Rival of Parliament. The principle in itself had been used by the Presbyterians themselves. When the "Popes of Edinburgh" were leading opposition they had often "assumed" other ministers at their meetings on no representative principle and they had been willing in several instances to call these General Assemblies e.g. 1593 although the whole Universal Kirk was not actually in attendance. Several of the group of Bishops and their supporters had been familiar with those conventions of the ministry with the result that the breach of the true representative principle did not seem to them so glaring as it appeared to the younger men of the Calderwood opinion. (2)

- The Convention of Bishops and such ministers as (3) were in Edinburgh at the time (January 1618) had had plenty of precedents in the past when the Presbytery of Edinburgh had been the leading group but even such a convention refused to accept the Five Articles until fully advised with the whole Kirk. The Royal threat of withdrawal of stipend was a dangerous one for it would mean that any gains which Episcopacy had won would be lost particularly in the matter of the late Commission, and the financial aspect had been the chief influence in bringing about vote in Parliament and the introduction of Bishops. The King's bargain was made with the Bishops that the Commission for Teinds would only be continued in the next Parliament if the Kirk submitted on the question of observance of Feast Days in the matter of which he had already used his prerogative power through the ordinances of the Privy Council. From the beginning the Kirk policy had been strongly influenced by considerations of stipend but the full pressure had never been exerted by the King to such a degree.

(1) Original Letters CCCXXVI, CCCXXIX; Matheson p. 316; Sp. III. 250

(2) cf Calderwood's bitterness in the matter of the Laird of Corse who was also minister of Keith, promoted to the see of Aberdeen. He said his purpose was not for religious conviction but to repair his "broken lairdship".

(3) Sp. III. p. 251

For several reasons therefore in spite of the apprehensions prevalent, there was no agitation on a national scale. The General Assembly was obviously the ultimate body without whose authority neither Synods nor Conventions whether nominated or not would make decisions. But the date was left open as in the case of the 1617 meeting. The Synod of Fife in spite of the solemn warnings of the zealot minority (1) was so amenable to the Royal will that it seems hardly possible that this was the same body which under the Melvilles had been the stronghold of constitutionalism.

It recorded that "it was thought expedient anent directing of Commissioners to the General Assembly quhen it sall pleis his Majestie to apoynt ane, that such men salbe nominat furthe of evrie Presbyterie as ar wyse and discreit and will give his Majestie satisfaction anent their articles proponed be his Highnes Commissioners in the laitt General Assembly at St. Androis" (2) The Synod of Lothian must have been equally tractable and the success of the Perth Assembly from the King's point of view must have lain in the fact that the influence of Bishops procured a working majority of Royalist supporters in the local elections. The Presbytery of Haddington on 15th July considered the commission of the Moderator

- (James Carmichael) from the Bishop of St. Andrews to the brethren "anent the choosing of their commissioners to the (3) General Assembly at Perth 25th August" On 22nd July they chose three ministers without other comment and no farther notice of the momentous meeting occurs until December when the acts of the Assembly were automatically registered

The notorious Perth Assembly was conducted on the model of Parliament and it seems almost certain that the representative principle was confined to the ministers and probably the Burghs. There is little indication of any attempt to return the representative lay elder from the Presbyteries. The situation really resolved itself into a meeting of a Convention of Estates and an ecclesiastical assembly which was only partly representative and in which as in the Parliaments of the time free election was interfered with by Royal influence and the want of formal examination of Commissions which was normally the first business of Assembly procured that in the vote on the Articles the non commissioned had equal right with the commissioned save only in the case of those ministers who opposed the Royal policy. All the lay nominees of the King were given vote irrespective of ecclesiastical right to attend. The reason for their attendance according to James view was intended to show that in spite of the Kirk propaganda the people at large were not alienated from their loyalty.

The device of the Privy Conference was a convenient

(2) Synod. of Fife. 14th April 1618 p.88

(1) They insisted upon the right of minorities. Synods would be divided and become anti-Synods. cf (Protesters in 1651 etc)

(3) Haddington MS Recs. They chose Grier, Mitchelson and Blackhall

* But Burghal choir was largely directed by its King.

method of disposing of questions on constitutional points and the fact that the composition of this body was at the nomination of the Arch bishop -moderator practically ensured that as in Parliament the minority would be unable to effect even formal protestation. The main body of the Assembly was as ineffective as the main body of Parliament once the

- (1) Conference had been appointed and the Archbishop formally made the Articles his model for procedure. The only real debates took place in the Conference in which the lay vote was strong while the numbers of Presbyterian ministers included to create an impression of impartiality were so few as to have no effect upon a vote (and the Archbishop insisted upon a vote in Conference in the Parliamentary manner). The Articles were to be passed en bloc likewise on the Parliamentary principle. While debate on individual points might be permitted in the Private meeting the arguments were never made known to the main body who were simply expected to register the decrees of the Committee. An attempt of the main body to be present at these debates was frustrated and
- (2) upon a brief report of how far the Committee had proceeded the outside members withdrew leaving the Conference to continue the important work of which the main body would thus be only partially informed when the ultimate vote was taken. Thus the Full Assembly held only two real sessions, one to elect the conference and the other to hear and pass its report. In the final session debate such as was attempted was at once repressed, the decision of the Privy Conference was adjudged by the Moderator and Commissioner final, and the last resort of the oppressed "open protestation" was as little regarded in Assembly as its precedents in Parliament (1584 1606 1617) had been.
- (3) Both sides indeed claimed that their point of view was the popular one. Spottiswood said that "neither lasse nor lade rich nor poore in Scotland some few precise persons excepted but wished the Articles to pass" The popular apathy might be construed indeed either way and indeed the Presbyterians did not consider that the popular opinion was the ultimate judge of the justice of the case. The wisdom of the ministry was their criterion and the minority who made the protest held that whatever the diocesan Synod might admit the individual Presbyteries did not second their amenable attitude. The Presbyteries which had appointed commissioners were in the majority against the Articles. If the individuals betrayed their constituencies it was therefore the duty of those who remained faithful to record dissent. The final vote and the establishment of the Articles en bloc. was a triumph for Parliamentary methods and the decisive majority in particular the practical unanimity of the lay vote showed that no popular demonstration was likely to result whether the minority view of the true sympathies of the country were correct or not.

(1) B.U.K.p. 1152

(2) *ibid.* p. 1156

(3) C.VII.p. 324.

- (1) of the disasters of 1596 and the vigilance of the Court of High Commission prevented the Council and the more important citizens from maintaining a determined opposition. Of the ministers of the Capital which normally gave the example to the rest of the country only Hall was of the opposition and in an attempt to retain both the King's favour and the popularity with the citizens resigned his ministry rather than make a definite choice of party. The dispute divided the Kirk Sessions of Edinburgh where it was observed that the present generation of ministers no longer were held in the reverence of the period 20 years before. The battle was fought within the Edinburgh Presbytery on the question of kneeling at Communion (which raised the most important resistance) even from members of the Town Council. The attitude of the General Session of Edinburgh was in the best traditions of the democratic spirit and curiously enough the opposition came
- (2) not from the Councillor-Elders but from the Deaconate who had less at stake. Nevertheless the majority were willing to submit and only a small minority continued resistance. Galloway himself admitted that the Edinburgh Kirk by the riot of 1596 had lost its power of unlimited freedom even to the extent that other Kirks were permitted and extreme threats of banishment to Flanders and Newfoundland were used to compel agreement. Royal Proclamations commanding absolute obedience and the strenuous censorship of the press exercised by the High Commission achieved some kind of submission in the Capital and to ensure results the King had no hesitation in interfering in the Municipal Elections to obtain more subservient magistrates. (3)

Spottiswood seems to have been anxious for religious motives as well as others to bring about some kind of uniform reconciliation. In a diocesan Synod of Lothian he announced that he desired a free discussion with the non conforming ministers, and this Conference did take place. Bishops and Presbyters met in St. Andrews for three days in November but the Royal letters which were then produced

- (4) insisted so much upon unqualified obedience that no alternative was left save acceptance or deposition and open resistance aided by popular support. Whether popular support would have effected anything without the active concurrence of the lairds was improbable, and it was this factor which brought about that "moderation" in the opposition which would not have been possible under the regime of the Melvilles and the Welshes and Davidsons of the earlier period. That the King and Bishops did have some fears as to the neutrality of the lairds is hinted now and again. e.g. the Laird of Torrie (C.VII.p.443) but a national rising was delayed for 20 years. Whatever the private opinions of lairds and burghsmen might be they were not universal enough to alter the policy of the individual Estates

(1) The "blott of Edinburgh and the blott of Scotland"

(2) C.VII.p.382,453

(3) ibid.p.394

(4) The chief opponents were William Scott John Carmichael R.Balcanquhall (Tranent) and Alexander Henderson.

Yet Haddington Records contain no record of struggle even of the deposition of Grier from Haddington.

The ultra Presbyterians, therefore, for free expression of their opinions were reduced to private conventicles particularly within the city of Edinburgh. In the event of a Parliament meeting these groups would undoubtedly coalesce and attempt some remonstrance against the formal confirmation of the Five Articles (already confirmed by act of Council)

- James was unwilling to summon a Parliament but he desired a taxation, for the supply of the Palatinate. His first effort therefore was to gain a voluntary contribution from an enlarged Privy Council which should be really a Convention of the Nobility (22nd November) 1620. At that meeting the nobles pled general poverty and recommended a regular
- (1) taxation in Parliament. Still reluctant the King appointed a second meeting in January where even fewer nobility and barons attended and by that time the Protestant cause in the Palatinate was lost. Spottiswood claimed that the reluctance of the King to summon a Parliament was to his desire to prevent the burden of a general taxation falling upon the commons and the poor labourer as would happen if Parliament imposed it. The indignation at the King's negligence in supporting the Protestant Cause and his own daughter, provided opportunities for the Presbyterians to unite their cause with a national issue upon which popular feeling ran high. The result was a recrudescence of opposition to the "Kneeling Communion" (Easter 1621). The Convention of January was by no
 - (2) means as negligible as Calderwood states. It appointed a committee of 14 to consider the question of taxation. This committee found that voluntary contribution was impossible and that the only suitable method was by "stent", and since no burghs were present a universal taxation was out of the question without general consent. Even to impose a compulsory stent upon themselves as an Estate the nobility found that
 - (3) Parliamentary sanction was necessary. The Royal Letter was communicated to the Council of Edinburgh which upheld their decision and referred the question of burghal contribution to the Convention of Royal Burghs. Of all the Estates therefore only the Kirk as represented by the Bishops was eager to support the Contribution for Protestantism. The need for money therefore compelled the King to summon a Parliament which he feared might be the occasion for a general ministerial
 - (4) movement. If the Presbyteries had in the old manner organized a representative meeting to control the Bishops and insist upon their caveats, all the King's schemes might have been frustrated, but all such conventions were forbidden. In any case the conventions of the Kirk had been accustomed to present petitions directly to the Lords Articles through their accredited commissioners and they had seldom met more than a few days before the Parliament. For this occasion the system of 1594 was revived and it was decreed that all petitions must be given in to the Council before 20th May otherwise

(1) Melrose Papers II. p. 381 (2) The sederunt in P.C.R.

shows 55 present 25th Jan. 1621; Melrose Papers. II. p. 388

P.C.R. XII. pp 380, 390 etc. *Rail. p. 155*

(3) A.P.S. IV. p. 589

(4) Proclaimed 6th March. for 1st June

they could not be received. All these supplications had to be submitted to the Clerk Register who was to place them before a committee of Council who thus had a power of rejection even before the Articles were appointed. This was obviously directed to prevent appeals being made by any extraordinary although unofficial convention of ministry at the time of Parliament. Save as individuals therefore the ministers had no opportunity to make protest. (1) and even as individuals their petitions would be rejected as "prejudicial to the Crown". Efforts therefore had to be made through other channels. The "godly citizens" or a group of them with the concurrence of some of the Kirk Session attempted to have a protest against the Five Articles included among the petitions of the Edinburgh Town Council, but without effect owing to the opposition of the magistrates and ministers (influenced by Galloway) who held that its inclusion would prejudice all other petitions on the part of the Burgh. The Parliament was prorogued to July and the limiting date for submission of petitions similarly extended. Groups of ministers such as the Edinburgh pastors had long complained of held unofficial meetings though in what numbers these minor convocations were attended is not clear. One meeting indeed although of no official standing drew up an elaborate supplication which the Clerk Register only reluctantly accepted. (2) Perhaps it was the same group i.e. "some few of the ministers" which directed the propaganda for a fast among the non conforming ministers for causes other than those officially laid down (3).

The Estates convened a few days before the Riding which originally fixed for 23rd July was delayed until 25th in order to allow the Royalist Party to influence the delegates. But while this was regarded as a corruption by Calderwood he did not consider the attempt of the godly to influence the separate Estates as corruption. The unofficial conventions of ministers which the King had anticipated met in Edinburgh and had obviously a scheme already prepared for influencing the meetings of the Separate Estates of Barons and Burgesses, and although unsuccessful in their first attempt before the Burghs might eventually have aroused some long forgotten religious fervour. The obvious remedy

- (1) "All other corporations of the Kingdome ~~or~~ private persons kept their ordinarie meetings... to prepare petitions to the Parliament. But the ministers were denied that libertie which they were wont to have of a General Assembly to send commissioners with articles to the estats convened in Parliament". C.VII.p.460 This view abandons the idea of the universality of Assembly as a rival of Parliament in order to insist upon its right as one of the Estates.
- (2) 9th July 1621. The presenter of the petition eventually suffered the penalties for opposition and was imprisoned in Dumbarton. C.VII.p.464 et seq. it pled for liberty according
- (3) to the original constitution and the restoration of the deposed.
- (3) Indirectly they violated their own theories of the constitution. The fast was to be observed if not with concurrence of Presbyteries by individual appeal to Sessions.

- quickly initiated by the Council(1) was the formal discharge of such conventions. The Bishops refused to permit even a delegation of this convention to remain, and within 24 hours the ministers were compelled to go. All that they could do was to leave a series of "informations" to Parliament, presumably to be distributed among the individual Lords and meetings of Estates. These were the work of but a handful of ministers (30 in all) who were prepared in spite of the proclamation to protest in Open Parliament. As the Bishops would only allow those ministers to remain in the town who undertook to do nothing against the Five Articles, the attitude of these 30 meant that they were prepared to incur the pains of rebellion for their 24 hours grace would have expired before the Parliament met even for its First Session. The arguments against ratification in Parliament were cogent, for as yet without complete establishment in law there was yet a loophole of escape from conformity. The authority of one assembly was not to be upheld against all the evidence of former assemblies particularly of an Assembly whose composition was so dubious. The peculiar circumstances of the appeal induced the Kirkmen to stress particularly the abuse of the lay element in Assembly (although on previous occasions meetings had been accounted Assemblies of the Kirk where the lay element was practically non-existent. Now the Kirk took its stand as a champion of the representative principle both in Assembly and Parliament against the principle of nomination as practised in the majority of Conventions of Estates. The King's missive to individuals did not give them right to vote either in Assembly or Parliament, without commission from Presbytery Synod or Session, or Shire Convention or Municipality. Their argument was a good one had it not been that the two systems of Ecclesiastical and Parliamentary
- (2) Representation were now inextricably intermingled. They pled for freedom of Parliament and an incorruptible vote. It seems clear that these admonitions were intended if not for the Articles (who would be prejudiced in any event if the King's precedents of election were followed) at least for the individual meetings of separate Estates, and it was probably to prevent this that these separate meetings were prohibited thus violating a long standing privilege of the Estates to discuss their own business and their ultimate vote in the interval of Parliament (Rait. p. 404) (3)
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- (1) P.C.R. XII. p. 546 23rd July
- (2) With the result that the Royal Nominees to the Assembly were often the representative Shire Commissioners to Parliament cf. St. Andrews Presbytery and the Fife Barons.
- (3) C.VII. p. 402. The discharge of the convention of ministry (although it was unofficial and probably unrepresentative or representative only of the one party) therefore had a less stringent parallel in the other Estates. Probably in numbers the 30 ministers considered themselves the equivalent of an Estate although obviously they had no representative basis.

The utmost care was exercised to see that no ministers should be present in Parliament at the choice of the Articles. A rhetorical speech in the Melvinian manner might have induced a rebellious spirit among the Estates such as Binning did find in the case of some of the smaller burghs (Rait. p. 303). The Estates as they met to choose the Articles on 25th July consisted of 11 Bishops, 38 Lords, 38 Barons and 50 Burgesses but there was little in the method of election which could have been utilized for Kirk benefit (1). Nevertheless two of the Lairds and one burgess opposed the Five Articles in Committee and the natural inference made by the majority was that they were so instructed by the ministers of their parish (2). Freedom of debate even in the Articles was threatened and even the business itself censored by that committee of the Privy Council which had been appointed in May to receive and classify petitions. With the Articles thus biased, with the Separate Estates closed to propaganda there was no alternative left to the Kirk save an attempt at Open Protestation before the Final Vote in Parliament should be called for (cf Andrew Melville's protest 1606 and the fairly successful protest of 1617). Binning was most concerned with the baronial and burgess vote both in the Articles and in Open Parliament, for many of those Estates were opposed to the new method of taxation (3) and given opportunity might in the manner of "Oppositions" make common cause with the Kirk whether vitally interested in these questions of ritual or not. In his letter to the King Binning stated that if this taxation of annual rents was insisted upon the opposition to the Articles of the Kirk would increase in the same ratio. (4)

The Final Day of Parliament therefore was the decisive one for both questions for although passed in the Articles Binning was well aware of a formidable opposition which by various dubious means he had attempted to overcome, - by bribery, threats to small barons and burghs, prohibition of meetings of separate Estates etc. The ministers' only chance for organizing both types of opposition was by propaganda before the ultimate vote. As before the greatest care was taken to debar from attendance any ministers likely to make protest although the supporters of the Bishops were admitted to "hear and see". Scrutiny at the Bars of Parliament secured the exclusion of the minister David Barclay deputed by the 30 to make the Formal Protest and verbal denunciation being denied he had to take the last alternative and affix the written document to the door of (5) the Tolbooth and to the Market Cross. By thus exercising a

(1) A.P.S. IV. p. 592. Ret. of Names. p. 553 the method of election is detailed C.VII. p. 490; Rait. p. 370

(2) C.VII. p. 493

(3) Melrose Papers. II. p. 423; see Rait. p. 494 Taxation of £400,000 and an additional levy of 5% on annual rents i.e. Income Tax.

(4) Melrose Papers. II. p. 424 2nd August. Orig. Letters. II. CCCXIV.

(5) C.VII. p. 496. see the Protest. p. 487.

careful control over the membership of Parliament, non members were excluded, yet in the Assembly the same scrutineers had refused to admit the simialr right of the Kirk to debar the non commissioned not only from presence but even from vote.

The procedure of voting was the same as that used in the Perth Assembly. The Five Articles were voted as one motion, and passed by a majority of 27(86-59) There was equal resistance to the Taxation(1) and it is probable that the confusion of the issues was the deliberate intention of the leaders of the opposition in both cases. Bruce with his statesmanlike mind had returned to Edinburgh in order to be present at the time of Parliament although when summoned before the Council he denied any efforts to corrupt "any Parliament man". (2) The Ministers were prepared to counteract the methods of Binning and the Marquis of Hamilton by methods equally unscrupulous. If the King could threaten Civil disability as retribution for disobedience the ministry held the old threats of spiritual censure, but their power was circumscribed by the fact that the ultimate censure of excommunication lay now with the Bishop and the civil penalties which gave the sentence its real force were thus out of reach.

Thus the Fateful Articles became law and the King lost no time in enforcing them by the most stringent means. the subjugation of the Kirk was complete. Had not a wave of Protestant zeal swept the country about this time it seems clear that the ministry must have stirred up some kind of national demonstration now that the barons and burgesses were chafing under the new taxation. Yet no great demonstration took place and instead the Presbyteries took themselves to active collection on behalf of the exiled Protestants for the French Kirk and for Rochelle. It was the Bishops who directed this great campaign and united lairds and their feudal tenants in large schemes for relief. Haddington alone subscribed £2,305 for the support of (3) Rochelle and in these national and Anti-Papist schemes which never failed to make their appeal, the struggles over minor points of ritual were forgotten for a time.

So from its proud position as the Rival of Parliament the General Assembly had become a kind of minor Convention ruled by the Royal Influence albeit by corrupt methods, a meeting of a Separate Estate but the least important of these Estates whose constitutional position was so weak that it had no control over its alleged representatives in Parliament. The seeds of this corruption had lain partly within its own constitution where the group system lent itself to sectional policy. Its real decline was due to the fact that with the

(1) Melrose Papers II. p. 426

(2) P.C.R. XII. p. 563

(3) Haddington MS. Records. Jan. Feb. and March 1622 see the discharge of the French deputy. 23rd March.

increase of the representative principle in the constitution of Parliament and by the disuse of the small nominated Conventions of Estates which had violated this representative principle, and driven the barons and some of the Burghs to the General Assembly, the power of the lay element in the Kirk had fallen away, both in Presbytery and Assembly. The Melvinian doctrine of the superior inspiration of the ministry over mere laymen, contained in itself a contradiction of the theory of the equality of all the godly which had given the earlier Assemblies their democratic character, and was but a little removed from the theory of the sanctity of the ecclesiastic advanced by the later Bishops which was so decried by the ultra zealous. More and more the Assembly had ceased to be a representative convention of the godly of all Estates of Scotland in order to become the stronghold of the ministerial class. By inclusion in the Parliamentary system the universality of the Assembly was resigned in favour of better results as an Estate in Parliament in obtaining redress for the acute financial situation. The experiment was bound to be made but the group system, and the prerogative aims of James (applied not only to the Church but to all Estates) combined to make the experiment a failure from the representative point of view. Had it been suggested before 1587 in any defined scheme the result might have been different and the Kirk might have made its Parliamentary claims through a representative lay element which if it had fulfilled the ideals of the Assembly would have constituted a real Parliamentary Opposition. As it was such opposition continued in spite of the inclusion of the Bishops to be exercised outside Parliament which was to all intents and purposes a one-party meeting for the purpose of registering that party's decrees.

In the struggles of the Civil Wars the lay element of the Assembly was for a short time the Parliamentary Opposition (1648), but considerable adjustment in the methods of deliberation and legislation would have been necessary before any real party system developed. But for the exaggerated claims of the ministry to divine inspiration, coalescence in some form between the lay elements of Parliament and its Rival must have taken place, but the divine right of Presbytery was the right of the ministry and not to any extent communicated to its lay membership. The ministers expected almost implicit obedience and while interests of laymen and kirkmen were identical, the alliance was strong. But neither Assembly nor Parliament would permit disagreement within its own ranks. The Assembly's claim to unanimity of opinion prevented any party system developing within its constitution while the Parliamentary organization was calculated to achieve the same result. Neither body was completely representative of all Scotland but the one was the complement of the other. Conventions in the manner of that of 1596-97 might have led to the formation of a really national body.

The Kirk and its Position as illustrated
in XVith Century Literature.

.....

"The Epistollis and evangelis now ar prechit
But sophistrie or ceremonies vain
Thy pepill maist pairt trewlie now ar techit
To put away idolatrie prophaine
But in sum hartis is gravit new agane
Ane image callit Cuvatyce of geir
Now to expell that idoll standis up plane
God gif the grace aganis this gude new zeir

For sum are sene at sermonis seeme sa halye
Singand Sanct Davidis psalter on thair bukis
And ar bot biblistis fairsing full thair bellie
Bakbytand nyctbouris noyand thame in nwikis
Ruging and raifand up Kirk rentis like ruikis"

Thus Alexander Scott, in his adjuration to the young queen enunciated the prevalent tone of disillusionment, within a few months after the glorious Reformation, of which so much had been expected.

Scottish poets for long had bewailed the miserable condition of Scotland, and the poverty and oppression under which the commons groaned, reduced often to beggary by the pitiless exactions of the great Lords and Kirkmen. (1)

With the advent of the new religion an era of goodwill and benevolent democracy was eagerly looked for; but though the Reformed Church in its earlier Assemblies did espouse the cause of the masses, particularly the country labourers, it was soon obvious that without Parliamentary enactment, little remission of their hardships could be gained. And since the commons and Kirk were alike unrepresented in Parliament, and moreover since the Kirk itself, in large measure, depended for its very existence, upon the great Lords and greedy Lesser Barons, it dared not make the amelioration of the peasant's lot too prominent a factor in its political and economic schemes. Any Reform then in spite of General Assemblies must necessarily be slow, and except as a vague and general opinion, the handful of ministers, who (backed by the Nobility and their feudal tenants) made the Scottish Reformation, allowed the problem to lapse. The altruistic

(1) cf. Poems of Dunbar; The Complaynte of Scotland; et passim.

dreams of a few were overwhelmed by the sordid realism and greed of acquisition which undoubtedly, except in a very few instances, actuated the leading lay Reformers. Visions had to give place to problems of hard expediency. And before long, doctrinal feuds, quarrels over jurisdictions, and the pretentious claims of a theocracy, almost completely filled the canvas of ecclesiastical policy.

Pure folk(says Scott) ar famist with thir fassionis
new

Thaj faill for falt(1) that had befoir at fouth(2)
Leill labouraris lamentis and tennentis trew
That thai ar hurt and hareit north and south
The heidsmen hes "cor mundum" in thair mouth
Bot nevir with mynd to gif the man his meir(3)

.....
Protestandis takis the freiris auld antetewm
Reddie ressavaris bot to rander nocht
So lairdis upliftis mennis leifing ovir thy rewme
And ar rycht crabit quhen thay crave thame ocht
Be thaj unpayit the pursevandis are socht
To pund pure communis corpe and cattell keie

.....
Paul biddis nocht deill with things idolatheit
Nor quhair hypocrasie hes beine committit
Bot kirkmennis cursit substance semis sweit
To landmen with that luid burd lyme ar lyttit(4)

Knox himself was quickly disillusioned. "Assuredlye some of us have woundered how men that professe godlynes could of so long continewance hear the threatnyngis of God against theavis and against thair houssis, and knowing thame selfis guyltie in suche thingis as war open rebucked, and that thei never had remorse of conscience neather yitt intended to re: store anythingis of that thei had stollen and reft. Thair was none within the Realm more unmercyfull to the poore Ministeris than war thei which had greatest rentis of the churches.(5)

The First Book of Discipline itself

(1) want

(2) plenty

(3) due

(4) Alexander Scott. "Ane New Yeir Gift to the Quene Mary
E.E.T.S.p.7

(5) Knox; History, Laing edition (Wodrow SOC.) Vol. II, Book III pp 128-129

attacked these lordly robbers. "With the greaf of our hertis we heare that sum gentilmen are now als creuell over thair tennentis as ever war the Papists, requiring of thame what soever before thay payit to the Church; so that the Papisticall tirranye shall onlie be changed in the tirranye of the Lord or of the Laird.... The Gentilmen Baronis Earles Lordis and utheris must be content to live upon thair just rentis and suffer the Church to be restorit to her libertie that in her restitution the poore who heir: tofore by the creuell papists have been spoiled and oppressed may now resave sum comfort and relaxation". (1) Though the Lords who signed the Book of Discipline, agreed that certain exactions should be abolished and that every man should possess his own teinds, yet the whole of the subsequent history of the Kirk hinged upon the fact that the economic problem never was satisfactorily solved. As the church increased in influence and in the independence of its claims it repudiated when it could the anomolous position of the ministers who were virtually dependent upon the local laird for support; and its anxiety to obtain full control of the wealth of the Pre-Reformation Church led the chief Kirkmen into the contradictory policy of attempting to secure their ends not by force of influence exerted outside Parliament but as members and voters as a third or fourth Estate within it. Thus they fell into the ambush of Episcopacy which the Court had prepared for them.

For the behoof of the Poor in the early days they certainly worked, but it would appear that in course of time they came to regard the "poor" (at least in their official representations to Parliament) as consisting largely of the "poor ministers" who in the Assembly of June 1562 were mentioned only as the "Third sort of Poor" (2)

(1) Knox, History; Vol. II; Bk. III pp 221-222

(2) Our third requeast concerneth the Poore who be of thre sortis: the poore lauboraris of the ground: the poore desolat beggarie orphelyns wedoes and strangaris; and the poore ministeris of Christ Jesus his holie evangell quilk are all so crewellie entreated by this last pretended Ordour (i.e. for the Thirde) that thair latter miserie surmonteth the former. For now the poore lauboraris of the ground ar so oppressed by the creualtie of those that pay thair Thrid, that they for the most parte advance upoun the poore whatsoever they pay to the Quene or any other. And as for the verray indigent and poore to whom God commandis a sustentation to be provided of the Teyndis they ar so dyspised that it is wonder that the sone geveth heat and lycht to the Earth whair Godis name is so frequentlie called upoun and no mercy schawin to his creatures. And also for the Ministeris thair lyvingis ar so appointed that the most parte shall lyve but a beggaris lyf. And all cumeth of that impietie that the idill bellies of Christis ennemyes mon be fedd

The literature of the time abounds in satires and lampoons on the same theme.-the gadly Lords of the Congregation in spite of their professions seized all they could regardless of who must suffer, whether Country Crown or Poor. The Scottish Noble of the XVIth Century had too long a record of avarice and treachery behind him to deceive such of the true social reformers who remained unblinded by religious emotionalism. Thus Sir Richard Maitland, a fairly impartial authority, a friend of the Queen but also in general sympathy with the Protestants, who ought, from his position as a lawyer and as the father of Lethington and Chancellor Maitland, to have known the true state of affairs, wrote:-

"Sum comouns that hes bene weill stakit
Under Kirkmen ar now all wrakit
Sen that the teynd and the Kirklandis
Came in grit temporale mennis handis
Thai gar the tennents pay sic sowmes
As thai will ask or quha ganestandis
Thai will be put sone fra thair rowmes.

The teynd quhilk tennents had befoir
Of thair awin malingis corn and stoir
Thair laird hes tane it our thair heid
And gars thame to his yaird it leid
Bot thair awin ~~stok~~ thai dar not steir
Thoch all thair bairns sould want breid
Quhill thai have led that teynd ilk yeir".(1)

Throughout all the Marian troubles thinking men and poets urged the Lords to refrain from plundering for their own benefit the Kirk possessions.

"Sic extorsioun and taxatioun
Wes never sene into this natioun
Tane of the comouns of this land
Of quhilk sum is left waist liand
Becaus few may sic chairgis beir
Mony hes quhips now in thair hand
That wont to have bayth jak and speir"(1)

The farseeing pointed out that only by just dealing and a fair division of the spoils could all Scotland be united into one Protestant and democratic Commonwealth.

"For Godis saik aboue all thing
Keip clene your handis fra wrangous geir.....
Tak Godis quarrell als in hand
And purge us from Ipocrasie
And then ye sall have in your band

"The Townis and communitie
 Provyde als for the Ministerie;
 Reforme the Justice gif ye can
 Than sall tryumph your memorie
 Above all sen this Realme began"
 (1)

It is surprising that so little of that godly fervour, which it is alleged so transformed the Scottish character, is expressed in the literature of the period. The poems of the age seem to consist of Court effusions, Commentaries on Public Events, distorted panegyrics of Darnley fulsome elegies on Moray, diatribes against Queen Mary along with glowing eulogies of Elizabeth, and bitter satires on Lethington(2), but of religion and the kirk little is heard.

Maddie the Cail-wife into whose mouth many general comments are put, and whose utterances are supposed to represent the current public opinion, saus nothing of Kirk or Assembly, towards which (had it been the 'true Parliament of Scotland' the commonpeople at least must have looked for guidance. It is the old spirit of bloodfeud and revenge which is most eloquent.

Sempill, the author of most of these ballads was undoubtedly a strong Protestant and partisan, but he refers seldom if ever to the organization by which the ministers hoped to reform the social moral and even economic life of Scotland. James Melville, when he was in Montrose in 1570 read an edition of his ballads printed in Edinburgh by Lekprevik and obviously regarded them somewhat in the light of a rhyming newspaper—"wherin he lernit something of the estait of the countrey", and he continued till 1584 at least to produce lampoons satires and chronicles of topical events.(3)

Occasionally we find diatribes against the Reformers, who according to some authorities were just as immoral proud and selfseeking as the priests and prelates whom they attacked. Even Knox himself was not immune from impeachment.

"The subject now commands the Prince and Knox is
 grown a King"
 (4)

(1) Robert Sempill, "Exhortation to the Lords" 1567. (S.T.S. pp 48-49)

(2) S.T.S. Satirical Poems of the Reformation. Nos. XIII-XVII.

(3) Melville's Diary (Bann. Club) p. 18.

See also his poem on Patrick Adamson, mentioned by Calderwood Vol. IV, p. 61, and published in the 'Satirical Poems, No. XLV, 346 etc

(4) Sat. Poems XXIX p. 201

Mailland has a good deal to say of the despicable hypocrisy which characterised the lay leaders of the Kirk, and it is no pleasant picture that he paints.

" Now is Protestantis rysin us amang
Sayand thay will mak Reformatioun
But yit as now ma vyces nevir rang
As Pryd invy fals dissimulatioun
Dissait adulterie and fornicatioun
Thift reif slauchtir, oppressioun of the puir
Of policie plaine alteratioun
Of wrangous geir now no man takis cuir
Thai think it weill and thay the Paip do call
The Antichrist and mess idolatrie
And syne eit flesche upon the frydayes all
That thai serve God rycht than accordinglie
Thocht in all thingis thai leif maist wicketlie." (1)

Again in the Lamentacioun of Lady Scotland, it is complained that though the Church is purged of canon monk and papist, avarice and ambition are still as prominent as ever in national life.

"I grant the word of God is trewlie preichit
And in the schuills Exercise trewlie teichit
Zit sayis the Commounis ze do not your office
For upaland thay have not dew service...
The parische Kirkis tyme thay so misgyde
That nane for wynd and raine thairin may byde.
Thus to disdain the hous of orisoun
Dois mak folk cauld to thair devotioun...
They go to labour, drinking or to play
And not to you upon the Sabbath day....
Zit sould I not blame you that sic dois perische
Bot Lordis and Lairds and Commouns of ilk Parishe
The quhilk were womt for to caus everie pleuch
In uphalding the kirk to pay aneuch
To do the same ze suld thame zit exhort
Togidder that thay suld the pure support."

(2)

(1) Sir Richard Maitland in "Of the Miseries of the Tyme"
lines 33-45.

(2) See Satirical Poems.

The consensus of opinion of the balladists therefore is that the Lords and Barons were no more informed with the spirit of true progress than were the auld possessors whom they had displaced, and that in point of fact the poor tenants were now in a worse plight than ever they had been.

"Quhair sic wer wont bravely to mak thame bowne
With Lord or Laird to ryde to Burrowis Towne..
Now mon thay wirk and labour, pech and pant
To pay thair Maisters Maillis exhorbitant
Sa be sic wayis my Commouns dois decres"

(1)

This naturally had its effect upon the standard of national morality, and these ballads note how careless hammermen and craftsmen in general have become, how their workmanship has deteriorated and how drunkenness is on the increase.

The other side of the canvas is depicted in the verses of John Davidson, the redoubtable minister of Preston Pans, who waxed eloquent over the virtues of the Reformers particularly of the "prophet Knox", whose death he regarded as a calamity both for church and state. (2)

"Lament Assemblie Generall
At thy Conventiouns ane and all
For thow wilt mis ane Moderator
Quhais presence mufit greit and small
And terrifeit baith theif and tratour
With all unrewlie Rubiatour".

(3)

Ye Lords also that dois frequent
The loft in Sanct Geillis Kirk lament
That Bogill thair that ye hard blaw
With quhom quhyles ye wer small content
For the schairp threitnings he did schaw
Yit thay maid yow sumquhat stand aw
Thocht not so much as neid requyrit

(4)

(1) *ibid.*, p. 235

(2) *ibid.*, XL p. 287.

(3) *ibid.*, XLI Ane schort discors of the Estaitis quha
hes caus to deploir the deith of this
excellent servand of God. p. 291

(4) *ibid.*, p. 293

Davidson also discussed in a rhymed dialogue the evils of the new system of Tulchan Bishops and the iniquity of uniting several parishes under one incumbent. Throughout the debates of "The Clerk and the Courtier" he insisted that if provision were granted, there would be found plenty of ministers willing to undertake the function. (1)

"Agane the Courtier gan say
 'Apperandly ye wald gif all
 The teindis of Scotland greit and small
 Unto the Kirk for till dispone
 And to the Court for to give none
 Quhilk wald make thame bot proud and hie
 As in the tyme of papistrie:
 Quhat wald ye than bestow on us? '
 The Clerk said, "Tak the superplus
 Quhen Kirk and Pure ar weill provydit
 And let the mater sa be gydit
 That thay of Kirk do not abuse it.
 Bot be controlled how to use it
 Becaus they ar bot mortall men
 That na wayis thay thairselfis misken.'
 The Courteour answerit fra hand
 'It will be countit to thair hand
 The teindis will not cum in thair nevis
 Sa lang as ony of us levis". (1)

(1) Sat. Poems XLII p.296 The date of the poem is placed in 1574.

NOTE ...Davidson's versified account of the patrimony of the Kirk.

"Quhair sall thair tytill be to schaw
 That thay have richt be ony Law
 Till ony stipendis moir or les
 Gif that this ordour tak succes
 For quhair befoir thay had sum rent
 Be ane plane act of Parliament
 That was the thriddis of all and hail
 Of benefices to thair dail
 Untill the tyme the teindis all
 Come in thair handis baith greit and small
 Quhilk is thair awin just patrimony
 Thir thriddes I say, but stopping ony
 The Kirkis Collectouris suld uptane
 Syne unto the Exchequer gane
 And maid thair comptis how thai were spendit
 Quhilk ordour wes to be commendit.

Sometimes on the other hand the Reformed Clergy were attacked with the most violent vituperation reminiscent of the Flytings of Dunbar, or Polwart and Montgomerie, as in the "Admonition to the Antichristian Ministers in the Deformit Kirk of Scotland"; but the Scottish vernacular literature was too meagre in output to give any real idea of the impression which the Church was making on public opinion. The Balladists and men like Scott and Montgomerie were too much attracted by the more picturesque baronial feuds, or by the possibilities of the remunerative Courtly Epigram, to deal adequately with the position of the Kirk as a National Leader.

NOTE (contd)

The Kirk first slakit than the rest
 Unto the Kingis grace use wes drest
 Sa than the Kirk had of their awin
 To serue thair use as is weill knawin
 Bot now quhen that they want that Law
 Quhat richt sall thay have for till schaw
 Except of Liberalitie
 It plesit the Authoritie
 Sum pensiounes for to give thame til
 And that Induring his gude will" (S.T.S.p.333)

(Referring to the late assignation of stipends and the appointment of a Collector General in Place of the Church Collectors whom Morton stated to have become corrupt.)

The Kirk in so far as it insisted upon the suppression of old established customs and all plays and minstrelsy was unpopular with the commons. There are instances in the Presbytery Records of Haddington and St. Andrews which show us the poor commons allying with the village piper to disturb the minister at study or asleep, in revenge for his restrictions upon their Sunday amusements. And it was the Kirk's zeal against such idle amusements particularly those provided by the fools and bards that with other circumstances brought about their share in the administration of the poor law with its stringent enactments against all vagabonds.

Even the Pre-Reformation Church had a share in the administration of acts usually inoperative which confined the pauper to his own parish. In 1574 a temporary legislation on the subject provided for the support of the native poor and for the suppression of strong and idle beggars. The Kirk Sessions in Towns and the Headsmen in country parishes were ordered to make a register of native poor and to arrange where they were to be lodged. To meet the expenses of this they were given power at discretion to tax the whole inhabitants proportionately by small weekly contributions. The stent roll was to be revised each year. The Act of 1579 renewing these provisions changed the administration to the Town Councils and Justices (specially appointed) If the weekly contributions for the beggars were insufficient they might be permitted to a limited exercise of their begging but the most stringent penalties were appointed involving even the death penalty for obvious disobedience. The act of 1592 reenacted all previous statutes but gave the administration to the Sheriff and his deputies. If these proved negligent authority was given to the ministers Elders and Deacons of each parish or as many parishes as would concur together to nominate a number of able persons as Justices with Royal authority to execute the acts. If these even were negligent they were to be tried at the justice ayre and they were held bound to execute the justice against breach of the statute within 40 days.

This confused system by 1597 had been found inexpedient and the whole administration in rural districts passed to the Kirk Session. As we know however the Kirk Sessions were often in the "landward" as ineffective as the civil administration for the lairds had a tendency to use it simply as another feudal court. In 1600 therefore the Presbytery was given a power of supervision and a penalty of £20 was appointed for negligence. The Presbyteries were to report to the King's ministers. When the J.P. was formally established with full power he was given power of cooperation with the Session in punishing drunkenness and drinking after 10 p.m. (A.P.S. IV. 548 c. 20)

The use of the Session in the country is easily explicable for it was the only really permanent organization in existence which met frequently enough to carry out the requirements. The Covenanting Government knew this when it permitted the

Presbytery a discretionary power of taxation for the same purpose in 1649. The Presbytery determined the collective amount and the Kirk Session apportioned it among their parishioners.

Thus the Kirk seemed to be almost essential for the adequate execution of such Acts of Parliament. But the Kirk Sessions it must be remembered meant for the Kirk the gentlemen heritors and thus the administration was hardly administration by a popular body

How far then can it be said that the General Assembly and the Kirk in general were the true representatives of the Scottish people? The formal constitution had possibilities of democracy, but in practice we find the ministers as a class are supreme. In times of crisis they appeal to a lay element which in the country districts consisted mainly of lairds, and these not long after the establishment of Presbytery "fell into desuetude". Even the most rigid constitutionalists among the ministry considered that the only time when it was essential for a lay element to be present was at the election of representatives to an Assembly. In the burghs the democratic element was excluded by the very constitution of the Book of Discipline of 1581. If the Assembly had been thoroughly representative equally of all the godly as it had set out to be, we should find instances of popular influence in the registers of the initiation of business which should through Presbytery and Synod find its way to the General Assembly and subsequently. Only in the rarest instances do we find this occurring. Important and national business did not have its origin as far as we can judge among the laymen of all ranks who formed the congregations of communicants. It was the minister who led, not by consulting popular opinion but in private league with the local magnate with whose interests he associated himself. If in Parliament there was no place for the unlanded so in practice there was none in the Assembly. For the Assembly's often unwarranted interference in civil affairs the general body of the inferior courts were not responsible. Kirk policy was not as a rule the express desire of the congregations of Scotland transmitted to the Assembly by free election; it was rather the result of the consultations of a central Lothian Fife group with the Lairds who most eagerly desired a share in the Civil Government.

The theory of the constitution was that each member was present as representative of the lower church courts. Before 1600 only in the case of the ministry might this be said to be true. For the Commissioner from the Burgh was no longer appointed in a Church Court but by the Civil Municipal government. The lairds had ceased to be active

members of the Presbytery whose representatives they were in theory supposed to be. For some time the barons had been electing their representatives not as Presbyters but as barons meeting as a separate estate, and as the Parliamentary system developed the attendance fell away. The members from the Universities were appointed after 1597 by no church court but by the University itself (as indeed had been the earlier practice under the Superintendents)

The result was that the electorate for barons and burgesses was practically identical and the Assembly was no more representative of the people of Scotland than was the Parliament. But the principle of free debate which was the privilege of Assembly to an extent impossible in Parliament was a real contribution to the democratic ideal. Laymen of any rank might interchange opinions without prejudice save that all were expected to give due reverence to the inspired opinion of the ministers. When free debate was denied and the Parliamentary methods of deliberation were applied to the Assembly, the power of the Kirk sank to mere registration of the ecclesiastical decrees of King and Bishops, just as Parliament did little more than record the decisions of King and Privy Council.

The Assembly no less than the Parliament had a well authenticated system of Augmented Councils, Conventions and Commissions which the leaders used in place of the more formal "Open Assembly" and the lairds used these Kirk conventions to obtain a fuller representation in the Civil Body. The Assembly while it remained completely outside the Parliamentary system, was the stronghold of the Parliamentary opposition, which once it had gained its ends and obtained a place inside the governing civil body, had little sympathy with the Assembly's Ecclesiastical claims.

Nevertheless during its most powerful days the Assembly by advocating a definite foreign policy, by prosecuting in spite of the King, a strong domestic policy, by its theories of jurisdiction and its attempts to curb the absolute power, was the most serious rival to the authority of Parliament.

APPENDIX *I*

Cottonian MSS. Cal. BIV p. 272.

Consideringe the short time which most commonlie is employed in the holdinge of conventions and generall assemblies in the realme of Scotlande and the multitude the cunninge and confused penninge of the articles, it may be suspected that the same wilbe propounded not so much to find the truthe and settle a good peace in the realme, as to divide and overthrow the quietnesse of the church and commonwealthe, and to bringe in further contentions and inconveniences then are yet seen, for the lyke course holden heretofore broughte forth suche effectes and therefore is the more to be feared now.

The articles of religion of the church of Englande sett downe in the convocation confirmed by his Majestie and established by act of Parliament declare that a albeit they thincke it fitt to reteyne such a kind of forme in this realme in regarde of this Estate: yet they doe it without condemninge other forreyne churches that agree in doctrine with them and maye use another forme then is here used. And therefore the church of Scotland in this realme is tolerated to use a diverse forme of discipline and rytes....by expresse wordes in the Letters patente of Kinge Edward the Sixt.

Wherefore it is to be considered not so much whether the discipline of Scotland is divers from that of Englande but whether it hath ben lawfullie established in Scotland or no, for which purpose it shalbe convenient to consider of the notes followinge.
First: the Confession of the churches of Scotland was established in Parliament in Julie or August 1560.

A book was also drawn for the discipline uppon commandement from the Lordes subscribed by the Duke of Chastelerault May 1560

Uppon the return home of the Queene of Scottis out of France a proclamation was published that the estate of religion should remaine as it was before the said queenes returne untill the parliament should be called. In the year 1562 an Act was made by the Queene and Estates that thrie partes of the Ecclesiasticall livinges should be employed for the providinge of the Superintendents ministers Elders Deacons etc.

In the year 1563 an Act of Oblivion for things past from the 6 of Marche 1558 ontill the first of September 1561. In the said Queenes times an Act was made in Aprill 1567 abrogatinge all lawes contrarie to the religion established. Afterwards uppon the marriage of the L. Darleye followed divers practises against the churches and the religion established, which had but a sorrowful ende for them that sought their overthrow.

In the Regencie of the Erle Murreye

in October 1567 the confession of the faythe and doctrine in Scotland was established in parliament and (cap 12) a speciall Act touching the iurisdiction of the churche . . . and Commissioners were appoynted to consider what other clauses might apperteyne to the iurisdiction priviledge and authoritie of the churche to be established by the parliament: and (cap. 4) all lawis and constitutions against god's worde and contrarie to the confession established abrogated: and (cap 10) the examination and admission of the ministers established in the power of the churche: the patron to present to the Superintendentes or other having commission from the churche ; appeale to the Assemblie of the Province and from thence to the Assemblie of the realme.

The Erle of Lenox altered nothing in the time of his Regencie. In the time of the Erle of Marre that succeeded him there was an Act made (cap. 2. 1571) that all lawes made against the true libertie of the churche of god and religion now publi[k]lie professed within this realme should be a abrogated.

In the Regencie of the Erle Morton anno 1572 an Act was made for proceeding against them that shall not give the confession of their faythe accordinge to the forme approved in Parliament and submit themselves to the discipline of the trewe Kirk (cap. 2 & cap 3) suche as be not allreadie under the discipline of the churche shall give their assent and subscribe the articles of the religion established, and (cap 4) that suche as shall not geve their confession and make their profession of trewe religion to be excommunicated and secluded from the societie of the churche and there a forme of an oathe sett down for sich as had made defection and were received to the Kings mercye, amonge other thinges to mainteyne the true preachers and professors of Christes religion against whatsoever enemyes and gainestanders of the same. There is also set down in the same statute in what order the ministers are to deale with the Recusants by admonition excommunicatione etc.

In the year 1579 the Kinge beinge declaredd Maior (cap 1 A) ratificatione of all of parlaments statutes and constitutions was made for the maintenance of the churche and religion. Cap 2. The Kinge with the advise of his thrie Estates in paelament granted iurisdiction to the church for preaching of the word correction of manners and administration of Sacraments and that no other iurisdiction Ecclesiasticall should be acknowledged within the realme other then such as is and shalbe within the same churche or what flowes thence concerninge the premisses. Item commissioners named and appointed to consider what other pointes should apperteyne to the iurisdiction of the churche and to reporte the same to the Kinge and his Estates in parliament so as they might take order therin and authorise the same by parliament.

Item (cap 4) that no nobleman gentleman or other shall goe beyonde the seas without the Kings licence

and this provition that they shall remayne constant in the profession of the religion established within the realme and do not procure anie thinge to the preiudice therof and at their retorne within XX dayes after to repaire ~~with~~ the Bishopp Superintendent or Commissioner of the Church within the boundes of which they shall arrive or happen to make residence, and there offer to make and geve the confession of their faith according to the religion established in the realme or then within X dayes after to depart(?) and remove themselves out of the realme wherof if they fayle that they be admonished and pursued as the adversaries of the said true religion, that the order appointed in the lawes allreadie made be used and executed against them, according to the direction tenore therof in all poynts.

It is to be remembered that these acts passed after that the Erle Morton was discharged of the Regencie which was 25 Julii 1578, and the King had taken uppon him the sole government. Afterwards in parliament 1581 or 1582 allthough the Erle Morton was therein atteynted yet all acts of parliament statutes and constitutions made before for the maintenance of the libertie of the church were by the Kinge with the advise of his Estates ratified and confirmed. Cap. 6 an act against such as observed divers papisticall rytes. Cap 8 an act fugitive and other papistes confirminge the former statute for their banishment.

..... Their actions (the plots of D'Aubigny and Fenelon) were not so closely kept but that they gave a great occasion of some alteration in the church and estate, wheruppon divers of the nobilitie made themselves suer of the Kinges person: and this action was commonlie called the roade of Ruthven 23 August 1582. The Duke of Lennox returned through England into France no other hurte being don. This action was after confirmed by the Kinge and an Act of the Lords of the Secret Counsell and from them sent to be allowed of by an assemblee of the ministers. This action the Kinge mislyked and sought to relieve himselfe as he called it of his thraldome as he did 26 Julii 1583. The Erle Gurreye was beheaded and divers noblemen ministers and others banished. A Parliament was holden in the yere 1584 overthrowinge the jurisdiction of the Church and gevinge it to the Kinge

All the Papists that were abroad returned home..... Heruppon ensued a combination betwene the noblemen remayninge yet in Scotlande and those which were exiled in Englande to returene againe as it fell out and no blood spilt or other greate harme don but onely William Steward removed who had iniustlie intruded himself to have the tytle of the Erle of Arran.

The Kinge was contented to restore the ministers and the state of religion as it was before, and certain articles sett downe with the Kinges assent at the Holy Rode house 1585 17 Februarie and the Bishopp of St. Andrews Acknowledged and condemned his faults and errors and desired to be reconciled to the ministers againe.....

Nevertheless the practises of divers Scotishe papistes with the King of Spain and Duke of Parma continued.....

I knowe not what the ministers maye have don at this timebut it cannot be but vehementlie suspected that the return of the Erles out of the Low Countreies doethe geve occasion of suspicion and iealousye: and their doings have ben against former lawes. And seinge there are sondrie acts of Parliament in Scotlande authorisinge the ministræ to proceade against suche papistes and suspected persons: I could wish that before the said ministers be condemned their fact might be well considered whether they have don anie thinge more then hath been warranted by the lawes of that realme before: for the aunser to the frivolous articles I thincke the ministers maye aunser as followethe:-

1--That matters of the externall Government of the churche maye be disputed of, so as they be not essential points and sett downe in God's book, and so subject to no arguinge or disputation.

.....
2--That part of discipline which is established in God's book and is essentiall ought not to be called in question by anye but mainteyned by Prince and Pastor. The government secular and the Ecclesiasticall are two distinct governementes and not to be confounded but bothe consent and direct their severall iurisdiccions to the edifyinge of the churche and performinge such dueties and offices as apperteyne to their severall callinges and to helpe eache other. The Ecclesiasticall cannot challenge anye secular iurisdiction. It is ministerium spiritus.....and ministerium reconciliationis.....

3--The 3rd article is answered by the act of Parliament anno 1560 cap 7 touching the pabron: and where there is a presbyterie erected by consent of the whole churche the presbiterie havinge that authoritie from the whole churche maye with less inconvenience choose the pastors then the whole churche which would breedebut a confusion.....In the Frenche churche some have gon about to intitile the whole congregation to this charge but it was to no other ende but to make a division in betwene them as perhaps is intended here.

4--The Presbiterie beinge chosen and havinge authoritie from the Churche maye if occasion so require appointe the pastor to leave his flocke for a time, the finction beinge otherwise supplied, and so as the absence of the pastor be to treat of some speciall matters concerninge not his particular churche onely but for the generall; in which case a pastor maye be sent to an assembly or Synode for the benefit of the churche in general. And so in the primitive church Bishopps and ministers were used now and then as ambassadors to Emperors and Princes. Nevertheless after this choyce by the presbiterie for the absence of the pastor: it were convenient that the same choyce and cause of the absence of the pastor should be notified to the churche ...

5
5--The whole worlde is not to be taken for the flock of everye particular pastor.....but yet this does not so limite him but that he maye have a zeale and desire to doe good to others...

- 6--Imposition of hands is no essential pointe for the making of a minister.....
- 7--In the reprovng of magistrates great caution and discretion is to be used that there may be no offence given against his callinge...Samuel, although he had a speciall charge to denounce unto Saul God's heavie displeasure...yet continued to honour him before the people least some inconvenience might ensue. Touching precedent admonition if the fact be of itself notorious and publick there neede be no precedent private admonition; otherwise if it be a private offence, private admonition is needefull.....Before God the offence of the magistrate and the subject is one
- 8--The ministers dealing in civill matters is utterlie to be mislyked and he ought not to ground himself upon bruits rumours or suspicions especiallie before an Auditorie. If the offence be notorious reparation ought to be made to God. If the matter be not apparent God forbidd that the name or credit of anie should be brought into the pulpit but admonitions first precede and a just and indifferent hearing of the partie before they proceede so farre.
- 9--The 9 is answered before to the fyft.
- 10--The simple pastor may not exercise anie jurisdiction alone but with the consent of those that are joyned with him, yet if the offence be private unto himself alone and not notorious against the church, he ought to proceede to a private admonition
- 11--Trial of the ministers doctrine should be by the Bible alone
- 12--I thincke it meeter that the Moderator of a Session be chosen yerelie rather then continue longer.....For Ambrose plainelie wryteth that the forme of the discipline of the primitive church began to be corrupted and altered by the securitie and negligence of the laitye and pride and usurpation of the clergy
- 13--Already answered in the 3rd. It tended to attribute authoritie to the whole congregation thereby introducing confusion. And yet I thincke that the Session should be elected not by the minister alone but by the ministers and others of the Presbiterye
- 14--Answered in the 12th.
- 15--The 15 is to be resolved in Scotlande and for this purpose looke the statute made 1572-cap 12 and lykwise 1581 cap 2
- 16--I thincke that the elders and deacons ought to have votes in the presbyteries and not the pastors onelye.
- 17--It were decent that the Presbyteries the Sessions and Assemblies should have the speciall matters assigned unto them wherin they ought to deale to thintent one jurisdiction might not cross another
- 18--The manner of the citations and libelling ought to be assigned to the discretion of the Generall Assemblie or particular Presbyteries and Sessions.....
- 19--It is convenient that there should be besides the particular Presbyteries, Sinodall Assemblies for two causes speciallie

- 19--the one to advertise eache other of the state of the private churches to amende that which may be amisse and to reteyne an universall union in doctrine and discipline and lykwise for matters of appeale that cannot be ordred in everye severall presbyterye.
- 20--I doe not thincke it convenient that all that havr votes in the presbyteryes or particular Sessions should have lykwise votes in the Sinodes and Assemblies:for so may they in matters of appeale come to be Judges in their owne particular causes,and therefore they onelie to have votes in Sinodes which are chosen and deputed therunto by ther severall churches and Presbyteries,.....
- 21--Answered in 20. No Universitie man or other to exceed the limite and boundes of his callinge or to take more uppon him then he hath a lawfull callinge to execute.
- 22--I thincke that the Kinge beinge pius et Christianus Magistratus may convocate a generall assemblie as in the ancient time the Emperor did summon Generall Councells and Sinodes for the Ecclesiastical causes....
- 23--I allowe rather that the Generall Assemblie should be extraordinary then ordinarie to be commenced as the weightie causes of the Churche shall require: for if it should be ordinarie divers pastors should be continualliek Kept from the ordinarie cures and charges and besydes the povertie of the church livinges is such in Scotland that there would not be founde meanes to beare such an ordinarye charge. And so in ancient tymes the Sinodes were called but one time in the yere or uppon weightie occasions.
- 24--I doe not thincke that all men of good learninge and religion ought to vote in the generall Assemblie but onelye such persons as are deputed by the particular churches for that charge.If anie man have anie speciall matter to present unto the generall assemblie by worde or wrytinge:Lett him be hearde in the name of gad and such order taken as shall be convenient.
- 25--Everie particular pastor is not obliged to repair to the Generall Assemblie but onelie such as are depute,otherwise all the churches should remain destitute and the charge would be insupportable.
- 26--Commissioners may be chosen in everye particular presbyterie in everye shire to repaire to the Session or Assemblie in the Shire and there the saids deputyes in the name of the Churches of that shire to appoint some to repaire to the Generall Assemblie in the name of the churches of that shire to assist the rest of the said Generall Assemblie. Looke the Statute in the Regencie of the Erle Murreye 1567 Cap 10.
- 27--This article cannot br answered without knowing of the particular number of the shires and parishes in Scotland: and perhaps some one or two for everye shire might be chosen for all the rest in the shire to be at the generall assemblie byproxye.

- 28--It were to be wished that nothing passed in the Ecclesiastical Assemblies without the consent of the Magistrate. If there be any repugnance betwene them in thinges prescryved in God's booke then melius est obedire Deo quam hominibus and they must not excede their callinge but deale in the worde and by the worde.
- 29--In the number of votes it is to be considered whether a man ought to follow maiorem partem aut meliorem and that ought to be followed which hath the better warrant and authoritie in god's booke as Moses commanded in his Lawe.
- 30--It is to be known whether in Scotlande there have ben limitations made of parishes and churches or other Lymits lawfully apperteyninge unto them according to Statutes 1572 cap 12 and 1581 cap 1 and without suche they have no power.
- 31--There is no reason why in the King's household should not be exercise of church discipline. The King and his household signed the confession 1580 promising to continue in obedience to doctrine of the church, confirmed again March 6 1589 and published at Edinburgh
- 32--Answered in 18.
- 33--Appeal to a superior jurisdiction. The appellant to send the proceedings to the superior judge who will send to the parties and some of the inferior judges who are to be admitted rather for information than as judges
-
- 37--Contumacy without lawful excuse is a crime. He deserves not to be acknowledged a member of the church
-
- 39--Defamation and slander ought to be punished by the civill magistrate. (The ecclesiastical jurisdiction must also censure it) so farre as to touche the reparation of brotherlie charitye and love.
- 40--Excommunication ought most properlie to be against such as have submitted themselves to the churche and not of those qui sunt foris. Touching thieves and Borderers(?) there is a speciall law as I remember.
-
- 44--I take it that not onelie pastors but others ioyned with them in the Presbyterie oughte to have vote in excommunication
- 45--I thincke that everye Ecclesiastical jurisdiction superior and inferior hath power to excommunicate
-
- 47--(Although a woman is excommunicate her husband is not to forsake her)
-
- 49--A Christian prince hath power to annull a notorious unjust sentence of excommunication and in the law of Englande there is a speciall wrytte for that purpose uppon good matter shewne in the Chancerye
- 50--.....An universitie or corporation maye be excommunicated if there be lawfull and iust cause.

- 51--If pastors do not their duty ~~as~~ a Christian prince may see disorders amended..but yet by civil means and not by ecclesiasticall censures.
- 52--I thincke a prince or magistrate maye appoynte a fast.
(Presbytery Synod and Assembly may do the same upon occasion)
- 53--I do not thincke ~~that~~ anye Ecclesiasticall iudgment can compell any~~y~~ man to sweare in suam turpitudinem nor proceade against anye but uppon lawfull accusation and proofes.....
- 54--I do not thincke that any Ecclesiastical jurisdiction ought to prejudicate the civill Jurisdiction or private mens riches(?) ..as tending to the abridgement of the civill jurisdiction, the civill magistrate may staye all such processes and yet not deal with that Ecclesiastical jurisdiction which concerneth animam.

Appendix. II

An illustration of how the Council answered the Articles submitted to them by the Kirk, showing how the Kirk hindered its own ends by not presenting proposals in a manner in which they could readily pass in to Acts of Parliament. The Kirk proposed the "general outline" and left the difficulties of detail and adjustment untouched. These answers are from the Miscellaneous Church Papers (Register House) No. 12. They are in reply to the Kirk proposals of 1575 (B.U.K. p. 339)

"Let ane overture be made upon the first part of the first article

Superintendentis or commissionaris salbe placeit in thay boundis quhairby gappis ar not.

Anent the hēle of ministeris that hes ower greit charge This poynt (wilbe handlit (deleted)) will cum in mayr propir after the lordis appointit for weating upoun the affaris of the polēcy

The last of the first article is generall.

Secondlye that sic impedimentis of this article is generall upoun speciall complaint ordir salbe takin as acordis.

Thirflie... Treatit upoun amangis of the policy. As to the last part of the article it is ower generall let it be maid mair special

Fourtlie remittit to the policie

Fiftlie (hes ellis gottin ane answer) is generall

Sixtlie hes ellis gottin ane answer

Sevint can not be done without avice of the parliament Ordour salbe tane wt. thir personis amangis utheris materis in the polēcy

Last Understandis thair is ellis ane ordinar clerk appointit ...for wraitting of the writtis as concernis the ministeris Understandis thair is ellis a clerk appointit quha hes and ordinar (stipend to wryte affairis of the ministry.

Miscellaneous Ecclesiastical Papers.(Register House) No.29 a.

Letter of King James Appointing"our trusty and weil belovit
Sir David Murray of Gosperdy(?) knight comptroller and the
Laird of Balcomie to represent him at the Synod of Fife on
the last Tuesday of September at Kinghorn.

They sall signifie to the said assemble that we ar upoun
ane course with the commissioneris of the Kirk to tak ane
solide ordour for repressing of the coursse of papystrie.They
sall ask the Synod to appoynt sic commissioners as are known
best aff ectit and inclynit to peaceable coursse such as Mr
Gladstones and Mr Robert Wilkie sall think expedient"

They were to be careful that no reference or motion was
made "fra the said assemble to the generall quhill may tend
to the disturbance of the quietnes and peace of the Kirk,sic
as calling in questioun of the acts of the laitt assemble
and speciallie the assemble at Parth.

"Lastlie that ye procure in speciall this instructionis
from the Assemble to the Commissioneris to be carefull that
na thing be movit or concludid in the Generall assemble that
in any wayis may brik the peace standing betwixt us and the
Kirk Bot that thair haill labor and credit may be employed to
kepe the present quietnes

Falkland 15th Sep. 1602

Appendix. III

TABLE SHOWING THE COMPARATIVE REPRESENTATION OF
THE PRESBYTERIES OF HADDINGTON EDINBURGH AND
ST. ANDREWS ON THE GENERAL ASSEMBLIE.

Year	Edinburgh	Haddington	St. Andrews.
1587	Ministers 4		
1588	Ministers 8 Lairds 7	Ministers 2 Lairds 7 Townsmen 1	
1589	Ministers 10 Lairds 6	Ministers 3 Lairds 7 supported by the whole Presbytery	
1590 (March)	Ministers 6 Lairds 7	Ministers 4 Lairds 6	
1590 (August)	Ministers 9 Lairds 9	Ministers 3 Lairds 3	Ministers 13 } for Laymen 20 } Fife
1591 (July)	Ministers 8 Lairds 6		
1592	Ministers 7		
1593			Ministers 9 St. Andrews Town & Landward parish 9 laymen Other "Towns" 12
1594	Ministers 6 Lairds 6	Ministers 3	Ministers 9 Laymen 27
1595 (Montrose)	Ministers 4 Lairds 2	Minister 1	
1596	Ministers 7 Lairds 6	Ministers 4 (ane greit number of gentilmen)	Ministers 3

Year	Edinburgh	Haddington	St. Andrews
1597 (March)	Ministers 3	Minister 1 (actually did not attend)	3 ministers (and 3 assessors (ministers))
1597 (May)		Ministers 3	
1598 (March)	Referred to Synod	Representatives chosen in Synod "ane greit number"	"The haill Presbytrie"
1599			
1600	Ministers 3 (later increased to 6)		(Ministers 3) Barons elect their own rep. 1
1601	Ministers 3 (Cannot get laymen to attend)	Ministers 2 (only 1 went)	
1602	Ministers 3		
1604			Ministers 3
		To Convention Ministers 2	
1605 Aberdn.		Minister 1 (did not go)	Record Blank
1606		Ministers 3	
1608		Ministers 3	
1610			
1616		Ministers 2	
1618		Ministers 3	

APPENDIX IV.

THE ESTATE OF THE BURGHS IN ASSEMBLY.

(1) Edinburgh

G.A. Commissioners
James Barron
Edward Hope

G.A.
1560 (Dec)

1562 June
(B.U.K.)
Recs. III, 138

James Barron
Edward Hope
James Young
(cutler)

1563 June
(Perth)

Andrew Murray of Blackbarony
John Adamson
(III. 161)
but Richard Strang
& Thomas Macalzean
were also there
(B.U.K.p.35)

1563 Dec.
(Recs.p.175)

James Barron
Mr. Clement Little
Mr John Marjoribanks

1564 June
(B.U.K.p.50)

Clement Little

1565 June
(B.U.K.p.60
Recs. III. 198)

John Spens
James Barron

1565 Dec.
(Recs. 211)
(B.U.K.p76)

Mr Thomas Macalzean
Mr John Preston Dean of Gild
and
J. Marjoribanks

1566 Dec.
(Recs.p.226)

James Barron (Merchant)
Richard Strang (Lawyer)

1567 July

Alexander Clark Bailie
Clement Little
John Preston
Richard Strang

1567 Dec.
B.U.K. 113

Thomas Macalzean
and Clement Little
Richard Strang
Alexl Sym

1569 Feb.
B.U.K. 135

Edr Commissioners mentioned
as attending

Edinburgh

1569 July B.U.K.p.145	James Barron
1570 July	Thomas Macalzean
1571 March B.U.K. 187 Bann. p.95	John Preston and Adam Fullerton Thomas Sommervell
1572 Jan. B.U.K. 235	Adam Fullerton John Preston
1573 March B.U.K.257	Adam Fullerton John Johnstone
1573 Aug. B.U.K.271	Adam Fullerton John Johnstone
1574 Mar.	John Adamson
1574 Aug.	Clement Little
1576 April B.U.K.p.352	Clement Little
1580 July B.U.K.459 Recs.IV.167	John Johnstone
1580 Oct. B.U.K.463	Comms,on Privy Conf. John Preston Alex.
1581 Oct. B.U.K.p 526	Provost Clark of Balbirnie and John Johnstone Thomas Craig advocate
1582 April	John Johnstone (P.C.)
1582 June	Several of Council in Durie's affair
1583 Oct	Edr.Comms.on P.C.
1585 Nov. Recs.p.441	Balcanquhall sent to Dunfermline Convention

Edinburgh

1586 May Recs.p.460	John Johnstone
1587 June	Present unnamed
1588 Feb.	John Johnstone on P.C. John Adamson
1588 Aug. Recs 527 B.U.K.p.730	John Johnstone Edward Galbraith and John Arnot Provost
1590 Aug. B.U.K.767	William Little Edward Galbraith
1593 April B.U.K.798	Present on P.C. and W.Little ex-P. J.Arnot " Clement Ker ex-B. to pnt.Petition
1594 May	The Provost
1596 Match B.U.K.873	The Provost
1601 May B.U.K.971	John Johnstone George Heriot
1602 Nov. B.U.K.978	John Robertson George Heriot
1606 Dec	John Preston ?
1608 July	Comms.Present
1610 June B.U.K.1091	Edward Ker Mungo Makcal
1618 Aug. B.U.K.1143	David Aikenhead George Foules

APPENDIX V

The Erection of the Presbytery of Haddington

Haddington had been erected along with the other Presbyteries in 1581 but in the Assembly of October 1583 the Synod of Lothian had petitioned that it be dissolved and the members distributed among other Presbyteries on account of the enormities "occurrand there, as rare conventioun of the brether loathsomeness and contempt of the word in the people and not executing the acts of the Assemblie". The Assembly referred the matter to the Presbyteries of Edinburgh and Dalkeith who re-erected Haddington Feb. 1583-84. It was again dissolved by the Platt. In June 1587 the Presbytery was again restored upon the petition of the Town conditionally upon good discipline being maintained. The agreement as entered in the Records of the Presbytery under date 4th Dec. 1589 seems to be the original supplication of 1583-84 but the dates are not clear. The petition was in the names of the Lordis barrouns gentilmen Provost bailzies consell and communitie of the burcht of Haddington and contained a protest against the inclusion within the Presbytery of Dunbar.

In the long agreement the Provost Bailies Town Council Deacons and Crafts oblige themselves to be diligent hearers of the word of god and partakers of his holie sacraments "and as they have renounced all forms of papistry,

idolatry and superstition to continue in the profession of the true religion according to the Confession of Faith confirmed in Parliament. They also promise "to assemble our wyffis children pren(tices) and utheris servandis in our parochie Kirk ilk Sondale ...preiching and prayeris before and eftir none and permit nane to do wilfullie in the contrare .And sal upon the said day be ane of our maestrats..... our toune and uther places neidfull within the liber(ties) of owr brucht for noting of carieris of laidis oron horsback etc etc.

(Any passing the time in gaming flyting selling meat or drink drinking or eating in taverne or any other way wilfully remaining from the parish Kirk) "And to uplift and exact the penalties and punnischments continit in the Actis of Parliament maid their anent at Edinburcht the xx day of octobir the zeir of 1579".

They also enact themselves that there shall be no fairs markets conventions of crafts or going of mills in time of preaching or prayers; that they will remove all monuments of superstition, festivals (Yule Pasche Whitsunday Mayday etc and the plays of Robin Hood Little John "abitis of Unresoun, bonfires singing of carrellis within or about the Kirk" or fostering of these in apparel, banquetting on Saints days etc "sumtimes namit pabronis" And they purpose to punish these faults according to the Act of 24 Oct 1581 Cap.6

"Mairover to concurre assist mantene and defend in bodie guds and fame our minister and reidar present and to cum in vsing ther office and reverencing? the word of god preichit or red out of there mouths and to that effect sall convene ourselffis with utheris oulklie as wesall happin to be chosen elderis or deacons to the particular Sessioun for taking consultatioun with the effairis our Kirk and exercising the discipline for reformatioun of maner~~is~~, correctioun of vicis and removeing of scklanderis and offencis especiallie of blaspheming of the name of god, incest adulterie and fornicatioun quhilkis we promeis to punische according to the Acts of Parliament and ordnances of the Generall assemblie of the Kirk maid theranent"

They likewise promised to allow no vicious persons to remain within their town. Since also an "Eldership"ie Presbytery was established they bind them: selves to convene in reasonable number every Wednesday to hear 'interpretation of the Word'. No Council was to be held then nor were the merchants booths to be open without the exaction of the penalty which the magistrates would collect in their weekly visitation.

"Last of all we faithfullie promeis in maner forsaide that ane at the least of our maiestrates sall give his presence oulkie alsweill the hail time

of the sitting of the particular sessioun of the elder:
schip for putting in executioun sic actis as of our
office apertenis and lawis of this realme and to repres
and punische the insolence of the dissolut personis;
and to satisfy the clerk for sums of money agreed upon."
Similarly they oblige themselves that the members of
the session and eldership shall be held in reverence.

A similar document signed by the
ministers of the Presbytery bound them to assemble
in Haddington every Wednesday.

Upon consideration of these bonds
Dalkeith and Edinburgh consented to re-erect a
Presbytery at Haddington.

Appendix VI

The varied list of charges brought against Mr Walter Hay minister of Bothans in May 1603 provide an interesting and unusual commentary upon parish life. He was of the same family as the Hays of Yester the heritors who had the chief interest and right of presentation in the church. He even claimed some kind of right to succeed to the family lands, and had more than one struggle with Yester on the point. Almost in its infancy the Presbytery of Haddington had disputed with Edinburgh on their right to reinstate Hay who had been deposed for some moral delinquency, but the brethren had at last accepted him and on several occasions we find him representing the Presbytery on various commissions and even on the General Assembly (e.g. 1595).

A visitation of the Kirk of Bothans revealed many irregularities. Lord Yester, three lairds and a great number of commons had a number of accusations to lay to his charge. They complained that their minister was a "fermorar", that he practised Medicine and made salves for curing sickness, and on one occasion was known to have taken four sheep as the equivalent of his fee. In addition to this he made "aqua vita" and sold it, he broke the laws of the realm against Sabbath breaking by riding on Sunday to Edinburgh to visit his medical patients and at other times lending his horse to "lead corn" on the

Sabbath. He was never known to study and as a result in his sermons used "ridiculous similitudes".

In addition to these personal faults he was also accused of delapidation by setting taks of his benefice and had given a tak of the Laird of Newhall's teinds to his own nephew Mr John Hay. He held no ordinary Kirk Session and oppressed the poor by being "owr langsome in teinding"

He denied most of the charges and claimed that any salves made were given to the poor so that he made no profit. In retaliation he showed that the chief heritors did not concur with him in the business of the Kirk Session, and the Presbytery was induced to nominate a Session who bound themselves to fulfil their function. The Acts of Parliament he declared were disregarded and the Sabbath was but little kept. Almost all his congregation he said went off far and near to hear plays and pastimes and often he had no auditors. A piper of the parish who persisted in playing his pipes on Sunday and so leading the people astray was even excommunicated for his fault.

Mr Walter was categoricalll ordered to confine his energies to the ministry; he was forbidden to farm, and to practise as a doctor or apothecary. He was forbidden to make drink in his own house and condemned to purchase it only. His conduct similarly on the question of tacks was strongly reprimanded. Ultimately in 1606 he was deposed on another series of charges.

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